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Situation of human rights in Myanmar

Report of the Secretary-General**

Summary

The present report, submitted pursuant to paragraph 13 of General Assembly resolution 69/248, covers the period from 7 August 2014 to 6 August 2015. It examines the human rights situation in Myanmar in the context of the ongoing democratization process in the country and highlights the efforts of the United Nations in supporting the Government and people of Myanmar in their path towards further reform and development.

During the reporting period, the Government of President Thein Sein continued to promote political and economic reform while facing the numerous challenges of transitioning after half a century of military rule. Economic growth remained brisk, with increased foreign investment and poverty reduction policies in place even as the country sought transition from least developed country status. The democratic institutions in the country continued to mature, despite fresh dilemmas and challenges. Parliament performed robustly, although its efforts to amend some of the more undemocratic features of the 2008 Constitution failed to advance appreciably. The Government continued its efforts for national reconciliation by actively pursuing peace talks with 16 ethnic armed groups. Those efforts culminated in a provisional agreement on a draft text for a nationwide ceasefire by the end of March 2015. While the draft has not so far received the final approval of all negotiating partners, it represents an important step in framing a political dialogue between the Government

* A/70/150.

** The report was submitted late in order to reflect current information about conditions on the ground.

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and the erstwhile warring ethnic groups, as well as the acceptance in principle of a federal system of governance. Although the Government has publicly committed itself to holding transparent, inclusive and fair elections, scheduled for 8 November, two rounds of consultations convened between various political parties as well as six-party talks between the country's top leaders have not yet paved the way for any broad political understanding on a credible transition to a civilian constitutional and democratic future. Major improvements in the organization and conduct of elections were announced by the Union Election Commission but some serious challenges remain. In particular, rising Buddhist chauvinism and strident anti-Muslim sentiments have continued to threaten the fragile communal stability, particularly in Rakhine State, and the disenfranchisement of the Rohingya Muslim population and some other minority communities, following the revocation of their temporary identity cards, remains deeply problematic. The risk of fresh outbreaks of communal violence, particularly in the context of the upcoming elections remains high. Despite the overall opening up of space for free expression and peaceful assembly and association in Myanmar, serious abuses against the media and civil society activists continue to be reported. In Rakhine, the Muslim community continues to experience discrimination and deprivation of their human rights. The crisis gripping migrants stranded on vessels in the Andaman Sea and the Bay of Bengal — many of them Rohingya — have attracted wide international attention and turned the spotlight onto the human rights situation in Rakhine, adding fresh pressure on the Government. In response, the authorities have agreed to consideration of the issue within a regional framework and to undertaking "search and rescue" measures for stranded vessels, providing temporary refuge for victims, including facilitation of their return, and improvement of the conditions of those internally displaced. On the broader issue of citizenship for the Rohingya, the Government has yet to display the requisite political will to resolve the matter.

I continue to remain closely engaged, both personally and through my Special Adviser, with the Government and people of Myanmar. The United Nations system has also provided technical, financial and programmatic assistance throughout the year to assist Myanmar address important challenges in the fulfilment of the country's political, developmental, humanitarian and human rights goals. In the critical period leading up to the general elections, the United Nations remains committed to supporting Myanmar in its strenuous effort to build a democratic, peaceful and prosperous State for all its people.

I. Introduction

1. The present report is submitted pursuant to paragraph 13 of General Assembly resolution 69/248, in which the Assembly called on the Secretary-General to continue to provide his good offices and pursue his discussions on human rights, democracy and reconciliation in Myanmar, and report to the Assembly at its seventieth session and to the Human Rights Council on the progress made in the implementation of the resolution.

2. The report covers the period from 7 August 2014 to 6 August 2015 and is based on information and assessments provided primarily through missions, monitoring and other activities and interactions undertaken by my Special Adviser on Myanmar. It also contains data and analysis provided by various United Nations entities active in Myanmar. The human rights situation in Myanmar has also been reviewed in the recent reports of the Special Rapporteur on the situation of human rights in Myanmar, which were issued in September 2014 (A/69/398) and March 2015 (A/HRC/28/72).

3. In the exercise of the good offices support of the United Nations to the Government of Myanmar, my Special Adviser visited Myanmar on seven occasions during the reporting period and held meetings with government representatives, civil society and other stakeholders. I also visited the country during the twenty-fifth summit of the Association of Southeast Asian Nations (ASEAN), which was held under the chairmanship of the Government of Myanmar in Nay Pyi Taw in November 2014. As part of the event, I co-chaired with President Thein Sein the sixth ASEAN-United Nations summit. While in Myanmar, I also had meetings with President Thein Sein, Vice-President Sai Mauk Kham, the Speaker of the Lower House of Parliament, Thura Shwe Mann, and with Aung San Suu Kyi, Chair of the Union Parliament Committee for the Rule of Law and Tranquility and Chair of the National League for Democracy.

4. Through the reporting period, my Special Adviser remained closely engaged with Member States to further constructive engagement by the international community in addressing the challenges Myanmar faces. In addition to bilateral and group-level consultations in New York and Myanmar, he travelled to Beijing in March 2015 to discuss the ongoing peace talks between the Government of Myanmar and the ethnic armed groups with the Special Envoy of the Government of China, Ambassador Wang Yingfan. He also visited Brussels in July and held consultations with the European Union. He briefed the Security Council on 2 April 2015 on the situation in Myanmar. The High Commissioner for Human Rights also briefed the Security Council on 28 May on the situation in Myanmar in the context of the ongoing migrant crisis in the Andaman Sea and the Bay of Bengal. In addition, I convened the second and third meetings of the Partnership Group on Myanmar on 26 September 2014 and 24 April 2015 respectively. Both meetings were attended by senior-level delegations from Myanmar led by Union Minister Soe Thane. During the meeting on 24 April 2015, Myanmar dispatched its largest and most senior delegation to date, which included the Minister for Immigration and Population Affairs, the Attorney General and the Chief Minister of Rakhine.

II. Context and developments

A. Political reform and democratization

5. Four and a half years have passed since the current reformist Government of Myanmar took office. Since then, the Government has embarked on an ambitious path of political and economic reforms and demonstrated its strong commitment to promoting democratic institutions and values in Myanmar. As a result, widespread and unprecedented political and economic reforms have swept the country. Over 1,000 political prisoners have been released since January 2012 and the space for freedom of expression and assembly has been greatly expanded. Over the last few years, newspapers, magazines and broadcast outlets have grown in number and become increasingly open, occasionally even strident, in the public expression of their views and criticisms. The country has continued to open its doors to visits by outsiders and has been active with the regional and international communities. However, with the political atmosphere becoming charged as the general elections approach, the Government has been the object of strong attacks in domestic quarters and internationally for punitive and strong-arm actions against protesters, journalists and media figures. Student protests in February against the National Education Law attracted the attention and concern of both the authorities and opposition parties. Such protests have had significant ramifications during the period of military rule. Together those actions were seen as evidence of "backtracking" on reform by the Government. Civil society organizations, activists and opposition parties have strongly questioned the commitment of the Government to building a democratic society and its intentions on early transition to civilian rule.

6. Meanwhile, the positive trajectory of reform appears to have continued with the release of some prominent political prisoners, such as Tun Aung, early in the year. Nonetheless, civil society groups estimated that more than 100 such prisoners remained in detention by the end of May. On 30 July, in a presidential amnesty, 6,966 prisoners were released from custody, including 210 foreign nationals. While it is not yet clear how many of them were political prisoners, according to a statement put out by the Ministry of Information the amnesty was granted "for the sake of stability and durable peace of the State, national reconciliation, on humanitarian grounds and to enable them to take part in the political process." For its part, Parliament remained active, holding two sessions (September-November 2014 and January-August 2015) and approving 56 laws, including 23 new laws, aimed at reviving the economy and reforming the governance structure. They included an amended Law on Peaceful Assembly, a National Education Law, new laws on disability rights and the protection of ethnic rights and several laws covering financial sector reform. Members continued to oversee and challenge the executive branch, at times rejecting or revising legislative proposals from the President, questioning ministers about executive actions and reviewing complaints from the public on land grabs, corruption and other issues.

7. Nevertheless, not all decisions taken by Parliament were uniformly well received and constructive. When the radical Buddhist Organization for the Protection of Race and Religion (MaBaTha) organized mass rallies against proselytizing through "improper influence and persuasion" and proposed a law that would require anyone who wanted to change their religion to first seek permission from the local authorities, the move received considerable support within Parliament

and among large sections of the majority community. Backed by a petition with 1.3 million signatures, this powerful group then prevailed on the Government to draft four bills restricting interfaith marriage, birth rates among certain communities and against polygamy. Although phrased broadly, those bills were widely seen as directed against the religious minorities in the country, especially its 2.2 million Muslims. Despite widespread international criticism, the package of the four "race and religion protection" bills was submitted to Parliament in November 2014. The bills rapidly made their way through the legislative process and the first one, known as "the population control health-care bill", was signed into law by the President in May. While the law was drafted as largely voluntary with no punitive measures, there are significant concerns that it is likely to be used to curb women's reproductive rights, particularly among religious and ethnic minority communities. The law allows local governments to impose birth-spacing provisions in regions where they deem population growth to be excessively high. The second bill, known as "the Buddhist women's special marriage law", was passed by Parliament on 7 July and submitted for presidential approval. The bill targets Buddhist women who marry non-Buddhist men and introduces vaguely defined acts against Buddhism as grounds for divorce, forfeiture of custody and matrimonial property and potential criminal penalties. The other two bills are aimed at restricting religious conversion and outlawing polygamy. Apart from curtailing the rights of religious minorities, those bills risk further emboldening ultranationalist elements within the country.

8. I have spoken to President Thein Sein on more than one occasion in recent months to express my grave concern about those controversial bills and urged his Government to reconsider pressing forward with them. I also strongly underscored my concerns with the senior Myanmar delegation that attended the Partnership Group meeting in April this year and with the Speaker of the lower house of Parliament, Thura Shwe Mann, who visited New York in May.

9. In addition to those egregious legislative initiatives, extant but outdated laws, such as the Official Secrets Act, the Unlawful Associations Act, and the Electronic Transactions Act, continue to be used to arrest, charge and discredit journalists and political activists. The amended Law on Peaceful Assembly continues to provide local authorities with broadly defined and arbitrary powers to deny applications for public protests and to arrest and detain persons involved in peaceful protests. Under the law, persons involved in unauthorized peaceful protests can face criminal prosecution and be sentenced to stringent prison terms. The United Nations has provided comprehensive technical comments to the relevant government entities on those and other laws and advocated for them to be brought into line with international norms and standards.

10. Critical to the reform of the political system is the reform of the 2008 Constitution, which has been the subject of considerable public debate. Notwithstanding that debate, the prospects for constitutional change prior to the elections remain dim. While both the President and the Speaker of the Parliament have publicly supported the need for constitutional reform, no specific time frame for bringing about a change has been determined. In Parliament, the Speaker entrusted a committee with the review of the Constitution and, during its last session of 2014 in November, called upon it to submit a report to the full Pyidaungsu Hluttaw or Union Parliament. During that session, the Speaker also instructed the committee to prepare a bill on constitutional amendments for its first

session in May and June 2015, with a view to preparing for a referendum on the Constitution, if necessary. However, the omnibus bill eventually presented to Parliament on 10 June tamped down the earlier demands of the National League for Democracy and did not include any proposal for lifting the critical limitation in article 59 (f) of the Constitution banning individuals whose spouses or children are foreign nationals from qualifying for the post of president. It sought instead to remove the condition in article 59 (f) disqualifying presidential candidates on the basis of the foreign spouses of their children. In the bill, reducing the majority requirement for constitutional amendments from 75 per cent (as stipulated in article 436 of the Constitution) to 70 per cent was proposed, thus seeking removal of the military veto on any constitutional change. Even those attenuated proposals failed to pass muster and were rejected en bloc by the army representatives in Parliament. In the end, the sole proposed amendment that was cleared was a relatively inconsequential stipulation under article 59 (d) of the Constitution, requiring holders of public office to have adequate knowledge of military matters. In that case, the word "defence" was substituted for "military" and adopted by an 88 per cent vote.

11. Given the inevitable stranglehold that the block voting by the military representatives predictably had on any change to the 2008 Constitution, it was natural that senior figures kept insisting on the need for a priori political understanding among the country's top political leaders, in order to bring about any modicum of political or constitutional change. In parallel with the efforts in Parliament, President Thein Sein also convened high-level political meetings with military leaders, the Speakers of the two houses of Parliament and representatives of prominent political parties. One such meeting was convened in Nay Pyi Taw on 31 October 2014 and was attended, inter alia, by Aung San Suu Kyi. At that meeting, the President urged all political leaders to continue to strengthen the democratic transition, to move forward with the peace process and to hold successful elections. He emphasized the need for all stakeholders to refrain from resorting to confrontational approaches and to strive for change for a better future through realistic political means. In April 2015, the President also convened six-party talks in Nay Pyi Taw with the country's major political leaders including Aung San Suu Kyi; Speaker Thura Shwe Man of the Lower House of Parliament; Speaker Khin Aung Myint of the Upper House; Commander-in-Chief of the Defence Forces, Min Aung Hlaing; and ethnic representative Aye Maung. While official sources described the meeting as useful, no agreements on specific political or constitutional changes were reached at the meeting and the whole exercise was described by Aung San Suu Kyi as fruitless. While all sides spoke of a further meeting to consider specific issues, that has so far not happened.

12. Notwithstanding the uncertainties generated by those developments, it is clear that the general elections scheduled to take place on 8 November will be an important milestone in the democratization process. If conducted in a credible, transparent and inclusive manner, they present an opportunity to demonstrate once again the commitment of the Government to democratic reform. Both the President and other senior political leaders have reiterated their commitment to holding free and fair elections and called for a peaceful and calm electoral atmosphere. In his New Year's Day speech, President Thein Sein praised the "new political culture" in Myanmar, reiterating his pledge that the "2015 elections will mark the first time since our independence when elections will be contested by all the political

stakeholders freely and fairly". In his monthly radio address on 3 June, the President stressed that the Government "will fully cooperate with the Union Election Commission and other relevant organizations," urging "all political forces and every single citizen to make it their goal to ensure stability during this transitional period before the general elections." On 27 March, the Commander-in-Chief of the Defence Forces, Min Aung Hlaing, pledged the support of the military for credible democratic elections and warned that it would not tolerate instability or armed threats to the polls. The Chair of the Election Commission, Tin Aye, has also stressed the commitment of the Commission to conducting the elections in a transparent and inclusive manner. For its part, the opposition National League for Democracy recently ended months of speculation and uncertainty and announced its intention to contest the election, which could be seen as an indication of its increased expectation of a credible process. Prominent activists, including 88 Generation leader Ko Ko Gyi, announced in July that they would run in the elections for the National League for Democracy, ending speculation that they would form their own political party.[1]

13. The Election Commission has undertaken preparatory work for the general election to improve the transparency and integrity of the electoral process. The measures include efforts to digitize and update the electoral roll; consultation with civil society and international electoral support organizations on the regulatory framework; invitations to international and national electoral observers for the first time; engaging with the media in their reporting on the elections; making changes to address electoral provisions that were problematic in 2010, such as advance voting; and reducing the costs of a candidacy. At the request of the Commission, an electoral needs assessment was conducted by the Department of Political Affairs and a modest electoral assistance project commenced in Myanmar in June 2015. The European Union, Japan, Switzerland, Norway, the United Kingdom of Great Britain and Northern Ireland and the United States of America have also pledged technical and other assistance for the elections. On 26 June, 67 of the 80 currently registered political parties signed the new code of conduct for the 2015 elections. The signing took place in the presence of the Union Electoral Commission, members of the diplomatic community and the media. An additional 12 parties have since signed up. The code was drafted by the parties themselves as a shared statement of acceptable campaign behaviour and has been endorsed by the Commission. As the country prepares for the elections, the broader political atmosphere has remained relatively calm. Increased freedom of expression and the press has allowed far more open debate and reporting on issues than was possible earlier and political parties have been operating with relative freedom.

14. At the same time, capacity constraints may hamper the Commission's conduct of the process. Understanding of elections among much of the electorate remains poor and extensive efforts will be needed to enhance such ground-level understanding. In addition, fighting in some of the ethnic areas may prevent polling, thus disenfranchising some ethnic minorities. There is a growing danger of communal tensions being exploited for political agendas in the run-up to the elections. In Rakhine and elsewhere, several hundred thousand Rohingya Muslims have been disenfranchised following a decision to cancel their temporary white

[1] At the time of writing, the application of several 88 Generation members, including Ko Ko Gyi, for nomination as National League for Democracy candidates had been rebuffed by the central committee of the party.

cards. Indian and Chinese minorities holding white cards have been similarly affected. During the 2010 elections, white card holders enjoyed the right to form political parties, participate in party activities and vote. In 2014, an amendment to the Political Parties Registration Act removed the right of white card holders to form political parties or be members. In February, despite a decision by Parliament granting white card holders the right to vote in a referendum, the President revoked the validity of the white cards. That decision was widely seen as having been taken following a decision of the Constitutional Tribunal questioning the action of Parliament and under pressure from ultranationalist Buddhist elements in the country. As preliminary voter lists appear around Rakhine, the names of Rohingya remain conspicuously absent and the community is being denied any political rights. The case of the long-serving Rohingya parliamentarian, Shwe Maung, who has reportedly been deemed ineligible to run for re-election by the Electoral Commission, is particularly egregious.

15. Ultimately, the credibility of the elections will depend on whether or not its outcome finds broad acceptance among the political leaders and the populace and whether a smooth transfer of power actually takes place. The time between the announcement of election results in November and the election of the President by an electoral college is likely to be a period of considerable uncertainty. It is important that all political leaders act responsibly and prudently, put the interests of the country before their personal agendas and help to maintain a calm and stable atmosphere. Any future Government will be expected to continue on the path of reform, including taking action on constitutional change to bring about further democratization and engaging the erstwhile ethnic armed groups and others in a credible political dialogue.

B. Armed conflict and the process of national reconciliation

16. Finding a political solution to ending more than 60 years of armed conflict between the army and the ethnic groups has been a priority for the Government of President Thein Sein. Having signed bilateral ceasefires with most ethnic armed groups, the Government has been embarked on an ambitious path of reaching a nationwide ceasefire agreement since 2011. Unlike previous attempts at a ceasefire agreement by the military Government, the current efforts at a nationwide ceasefire were to be part of a broader national reconciliation that would include the drawing up of a framework for political dialogue and engagement with the broad range of ethnic armed organizations and other political forces in the country. The President has also made a commitment that the process will lead to the emergence of a genuine federal system of governance, a key demand and aspiration of the ethnic groups. According to the peace road map of the Government, the parties on both sides will draft a framework for political dialogue within 60 days of the ceasefire agreement being signed, with the actual dialogue process expected to commence within another 30 days of the agreement on the framework.

17. Progress on the peace negotiations between the Union Peace Working Committee on the government side and the Nationwide Ceasefire Coordination Team, representing 16 ethnic armed groups, continued at a varied and disparate pace during the reporting period. Three rounds of formal negotiations and numerous informal and technical negotiations were conducted on a single draft text of the measures for a ceasefire, including references to a code of conduct for armed

personnel, ceasefire monitoring mechanisms and so-called security sector reintegration modalities — the latter covered only in very general terms. In parallel, a peace donor support group, led initially by Norway and now by Switzerland and comprising Australia, Japan, the United Kingdom, the United States, the European Union, the United Nations and the World Bank, has been supporting the Government and the ethnic armed groups and technical bodies connected with the peace process. During the course of the negotiations between August 2014 and March 2015, my Special Adviser was present as an observer, together with China, and witnessed at first hand the determination and resolve of both negotiating sides to reach a common understanding and political solutions based on a modicum of mutual confidence and trust that had been absent for more than 60 years of conflict on the battlefield. The fact that the different ethnic armed organizations, with their distinct and sometimes divergent interests and aspirations, could come together to form a single composite negotiating team as the Nationwide Ceasefire Coordination Team and work constructively on a common text with the Union Peace Working Committee was in itself a significant achievement.

18. Despite the considerable headway and early positive signs, however, the peace talks were seriously interrupted over the seven months between late September 2014 and March 2015 owing to significant clashes involving armed groups such as the Kachin Independence Army, Ta'ang National Liberation Army and Arakan Army in Kachin and Shan States, and latterly involving the Myanmar National Democratic Alliance Army, which badly dented the much needed build-up of trust between the two sides. Each side accused the other of backtracking and of resistance from hardline elements. The attempts by some ethnic armed groups to publicize action by a so-called "federal union army" were seen by the Government as provocative. Meanwhile, the army strike against the Kachin military training school near Laiza in November 2014, in which 23 cadets from various ethnic armed groups were killed, sharply increased the tensions between the Government and the ethnic armed groups.

19. In the Kokang Self-Administered Zone of northern Shan State bordering China, an outbreak of fighting from February between the army and the Myanmar National Democratic Alliance Army and other groups caused some of the severest losses suffered by the army in recent years. In a radio address on 1 March, the President stressed that he would "not tolerate any country or group infringing the sovereignty of Myanmar." Declaring martial law in the area and a gag order against media outlets covering the conflict there, the army responded using heavy artillery and air power against its opponents. Those sharp retaliatory attacks by the army in mid-March spilled over the border with China, resulting in the deaths of five Chinese civilians and attracting a sombre warning from China. However, both sides moved quickly to defuse the situation with a formal apology from Myanmar.

20. Meanwhile, the Government also reached out to the armed groups, making some critical overtures to break the deadlock. The presence of the President at the signing on 12 February of the deed of commitment and formal declaration of the intent of the Government to pursue political dialogue for a "federal union based on democracy, equality and self-determination" reaffirmed the commitment to national reconciliation. Key ethnic organizations, however, remained absent from that ceremony. Partly at the urging of China and others, a Kachin Independence Organization delegation led by La Ja visited Nay Pyi Taw for the first time in mid-March 2015. They were well received in the capital by both President Thein

Sein and the Commander-in-Chief of the Defence Forces, Min Aung Hlaing, and at the subsequently held seventh round of talks which began on 17 March, the 18 month-long negotiation over the agreement on a nationwide ceasefire culminated in the signing of a draft agreement on 31 March. At the signing of the draft agreement, President Then Sein expressed the readiness of the Government to move forward on key promises contained in the draft, the most important of which was a guarantee of political negotiations and the commitment on the establishment of a democratic federal State — two long-standing and critical demands by the ethnic groups. Some significant points of contention, including on details of joint monitoring, security sector reintegration and a code of conduct, remained unresolved and await a future political dialogue.

21. In the following months, the President continued to reiterate the readiness of the Government to sign the ceasefire agreement at an early date. However, on the side of the ethnic armed groups, the Nationwide Ceasefire Coordination Team suggested that the signed draft would be subject to approval by a leadership summit of the ethnic armed organizations, to be convened urgently. That summit was held from 2 to 9 June in Law Khee Lar in Karen State. My Special Adviser attended the summit as an observer, along with a delegation from China. Rather than ratifying the text agreed by the Nationwide Ceasefire Coordination Team at the summit level, the meeting resumed the debate and discussion on the same text, proposing 12 further amendments to the already signed draft nationwide ceasefire agreement. It also set up a new senior delegation negotiation team to replace the Nationwide Ceasefire Coordination Team in further negotiations. Among other issues raised afresh was the plea that all 16 armed groups be included in signing the ceasefire, seeking to overrule the reservations of the Government about the inclusion of the Myanmar National Democratic Alliance Army, Ta'ang National Liberation Army and Arakan Army as signatories of the agreement at that stage. Although the stance taken at the Law Khee Lar summit was viewed in some quarters as a step backwards in the negotiations, government peace negotiators under the leadership of Minister Aung Min decided to re-engage with the Nationwide Ceasefire Coordination Team and the senior delegation negotiation team at Chiang Mai in Thailand in early July. Meanwhile, ostensibly at the behest of China, the Myanmar National Democratic Alliance Army declared a unilateral ceasefire in its conflict with the army in early June, a move the army refused to take seriously. As contacts between the two negotiating sides progressed, both sides publicly showed signs of willingness to take forward the text that had already been worked on. A further round of negotiations took place in Yangon in mid-July, where the gap was narrowed, but key issues remained pending, including differences over the signatories and the international witnesses to be invited. The parties met again on 6 and 7 August without reaching final agreement on the signatories from among the ethnic armed groups. Nevertheless, last-ditch contacts are taking place. If agreement is reached on this point, senior leaders from the armed groups will be invited to meet the President and Commander-in-Chief to confirm it and to sign a nationwide ceasefire agreement. That will be the last opportunity under the present Government.

22. I have repeatedly emphasized to both sides the need for all concerned to take a "leap of faith" in order to surmount the accumulated suspicions and mistrust and to embark on a new period of cooperation. Only in that way can the path be opened for a stable ceasefire and a meaningful and constructive political dialogue. It remains to be seen whether the sides will make tangible progress on those issues before the

elections. The last 18 months have shown that all sides have the capacity and will to find a way out of conflict. Periodic stalemates have been overcome and both sides have persevered in negotiation and built a foundation of understanding and appreciation for the constraints on the other side. Their technical teams have often worked closely in tandem to clarify misunderstandings and misperceptions. Regardless of the outcome of the negotiations, the experience of the parleys will be extremely useful for the future. It must also be recognized that President Thein Sein and his negotiating team on the government side and the leading members of the Nationwide Ceasefire Coordination Team on the side of the ethnic armed groups, deserve much credit for having engendered and promoted a culture of dialogue and patient negotiation — a significant achievement that no previous Government in Myanmar has accomplished.

C. Socioeconomic development

23. The general economic outlook in Myanmar remained positive during the reporting period. According to the preliminary findings of the International Monetary Fund, the outlook for growth remains favourable over the medium term but there are signs of risk for the near term. The Fund expects the real rate of growth in gross domestic product to decline slightly to 7.8 per cent in fiscal year 2014-15 from 8.3 per cent in 2013-14. Foreign investments grew sharply during fiscal year 2014-15 to $8 billion according to the Myanmar Investment Corporation, a more than 200 per cent increase compared to the year before. While the energy sector was the leading recipient of that investment, with 35 per cent of the total, both the telecommunications and manufacturing sectors also received 25 per cent. Steady investment in manufacturing, real estate, hotels and tourism has been part of the general trend. There has been a notable change in the banking sector: in October 2014, for the first time in half a century, the Central Bank of Myanmar announced that nine foreign banks had been awarded licences to operate in the country. During my visit to Nay Pyi Taw in November 2014, I was encouraged by my meeting with business leaders, who were members of the United Nations Global Compact group in Myanmar and were committed to operating in ways that met fundamental responsibilities in the areas of human rights, labour and the environment and in combating corruption.

24. Growth in foreign investment has been accompanied by some limited efforts on the part of the Government to strengthen the legal and regulatory environment and mitigate social and environmental risks. The 15-year power development plan, unveiled in November 2014, added to existing concerns about the lack of transparency and adverse environmental and social impacts around large-scale hydropower projects on the Salween River and other major projects. The Government has made some effort to address those issues. In October 2014, it established the National Land Resources Management Central Committee in an attempt to open up the national land use policy formulation process to the public and extended the consultation period. It also worked with the International Finance Corporation to carry out a strategic environmental assessment in the hydropower sector. It also made modest efforts to advance inclusiveness and transparency, inviting local civil society to the third Myanmar Development Cooperation Forum in February 2015. In terms of revenue transparency, Myanmar is currently developing its first extractive industries transparency initiative report, covering

revenue reporting in the oil, gas and mining sectors. While those efforts are encouraging, they should be accompanied by implementation of the anti-corruption law, increased transparency around investment decision-making, inclusive economic development policies and effective grievance mechanisms.

25. President Thein Sein has continued his efforts to reduce poverty and graduate Myanmar from the list of least developed countries. In December 2014, the Government and a United Nations-wide mission, led by the High Representative for the Least Developed Countries, Landlocked Developing Countries and Small Island Developing States, conducted a least developed country graduation workshop and reviewed the current status of Myanmar against the relevant criteria. Subsequently in January, the United Nations increased its provision of technical support and urged the Government to carry out policy discussions with civil society and the private sector to identify effective strategies and actions needed to achieve concrete progress on the ground.

26. In April 2014, with support from the United Nations Population Fund and donors, the Government conducted a nationwide population and housing census for the first time in three decades. The conduct of such a census was essential, timely and invaluable in light of the ongoing political and economic transformation of Myanmar. From May 2014, international and national conflict advisers visited regions across the country to consult with ethnic, religious, political, women and youth groups to help dispel misconceptions about the process and provide opportunities for engagement and trust-building in the census. Reliable demographic and social data on the population will provide a firm statistical basis for policymaking and donor interventions in the years ahead. The main result of the census was released on 29 May 2015, including detailed data on population size and growth, age and sex, marital status, migration, births and deaths, education, employment, disability and housing conditions in each state and region, district and township. Additional data on occupation, industry, ethnicity and religion are scheduled to be released in 2016. Nearly 98 per cent of the population was counted and remote ethnic areas never previously counted in a census were included, thanks to dedicated negotiations between the Government and ethnic leaders. However, an estimated 1.2 million people from Kachin, Rakhine — the majority of whom were Rohingya — and Kayin States were not fully enumerated, reflecting the continuing challenges posed by internal conflict and ethnic divides. The refusal of the Government to allow self-identification of the Rohingya in the census and their consequent non-participation, detracted from the efficacy of the exercise in Rakhine. The populations for those areas had to be estimated by other means.

D. Human rights situation

27. Despite many positive developments, the reporting period witnessed some serious violations of human rights. Activists, journalists and ordinary citizens faced arbitrary arrest and detention when exercising their rights to peaceful assembly and association and freedom of expression. On 10 March 2015, 127 peaceful protestors calling for amendments to the national education law were arrested at Letpadan and charged with rioting, causing injury to a public servant, unlawful assembly and disturbing national stability, charges which carry prison sentences of up to 10 years. At least 54 of them still remain in pretrial detention and many have been denied bail.

28. The Government signed the International Covenant on Economic, Social and Cultural Rights in July 2015. On the ground, continued reports of land-grabbing remain of concern. As protests over land rights and extractive resources have intensified, farmers and community-level organizers involved in protests have faced heavy-handed treatment from the authorities. On 18 February, 14 villagers from the Yangon suburb of Michaungkan, who were demanding the return of their land, allegedly confiscated by the previous military Government, were arrested and sentenced to six months in prison. Earlier in December 2014, six activists were arbitrarily arrested in Yangon after peacefully protesting against the fatal shooting of a protestor at Letpadaung copper mine in Sagaing weeks before. On 15 May 2015, they were sentenced to four years and four months in prison. Meanwhile, allegations of the excessive use of force by the police and security forces in dispersing protests were made in wide-ranging cases. On 22 December 2014, police reportedly opened fire on villagers, farmers and monks protesting alleged land confiscation and damage to the environment at the Letpadaung copper mine. One person was killed and others were injured. In a further instance on 10 March 2015, the police were accused of using excessive force to disperse a protest against the national education law.

29. While the media continued to operate in a freer environment, several local journalists were arrested and imprisoned during the year on charges of defamation, harassment, trespass or violation of national security laws. There are currently at least 10 journalists imprisoned in Myanmar on defamation charges. The case of freelance reporter Aung Kyaw Naing (also known as Ko Par Gyi), allegedly tortured and killed in military custody in Mon State in early October 2014, was particularly disconcerting, as it represented the first journalist killed on duty since 2007. An official inquiry into the death was reportedly closed in June without apparent resolution of the case. Meanwhile, concerns remain over the lack of accountability and impunity for past and ongoing human rights violations allegedly committed by the military and non-State actors, both in conflict-affected and ceasefire areas. The criminal investigation into the brutal rape and killing of female Kachin teachers, Maran Lu Ra and Tangbau Hkawn Nan Tsin, has lacked credibility and the perpetrators remain at large. A further disturbing recent trend has been the alleged threats of criminal law suits made by the military against civilian complainants of such violations.

30. Institutionalized discrimination against the minority Muslim community, especially the Rohingya — officially referred to by the Government as Bengali — has continued to be the subject of focused international attention. It attracted particular attention in the context of the irregular migration crisis in the Andaman Sea and the Bay of Bengal during May and June 2015. An estimated 1.2 million Rohingya in Rakhine continue to face various forms of restrictions on movement, employment, education and religious freedom. The question of legal status, including access to citizenship for a majority of the community remains unresolved. In the latter half of 2014, the Government launched a pilot citizenship verification exercise in Myebon Township, offering the possibility of citizenship for Kaman[2] and Rohingya internally displaced persons. By mid-2015, approximately 600 persons had received citizenship decisions, although their movements continue to be restricted. The process remains stalled amid resistance from the applicants to

[2] The Kaman are a Muslim community formally recognized as one of the 135 national races and entitled to full citizenship.

identify as Bengali. As highlighted above, in February 2015, the Government revoked white cards and instructed all white card holders — reportedly a total of 760,000 people — to surrender their cards by 31 May. More than 400,000 cards were surrendered in Rakhine, a majority from Rohingya. In return they were given receipts, which they were to exchange for a new card. According to the Ministry of Immigration and Population, the new card is an identification card valid for two years and not evidence of citizenship. Its holders will need to apply separately for citizenship. Communities are reportedly reluctant to take the new card, because it is not clear what will happen after the two-year period of validity expires. It is also unclear whether Rohingya who did not surrender their white cards can apply for citizenship and how stringent the requirement for the Rohingya community to identify as Bengali will remain. As of 1 June 2015, the verification of citizenship process resumed in Rakhine, with the requirement to identify as Bengali intact. To date, only 800 household applications seem to have been made across three townships in Rakhine.

31. My Special Adviser and I have continued to urge the Government to take measures to end such systematic discrimination against the Muslim communities and to alleviate their suffering. In its resolution 29/21, adopted on 3 July 2015 at its twenty-ninth session, the Human Rights Council also called on the Government of Myanmar to take the necessary measures to address discrimination and other human rights abuses against the Rohingya Muslims and other minorities and grant them full citizenship.

32. The Tatmadaw (armed forces) and seven ethnic armed groups continue to be listed for the recruitment and use of children in the annexes to my reports on children and armed conflict. During the reporting period, the Government made progress in the implementation of a joint action plan, concluded with the United Nations in 2012, to end and prevent the recruitment and use of children. That included the discharge of former child soldiers from the Tatmadaw, joint verification of suspected minors with the United Nations to expedite release of those who were recruited under the age of 18, increased monitoring access to military battalions, training schools and recruitment centres, including for border guard forces, and awareness-raising and training efforts to sensitize troops. Ten monitoring visits in 44 military units were conducted by the United Nations during the reporting period. In April, the United Nations Children's Fund (UNICEF) organized a two-day workshop with the army and key ministries, including the Ministries of Defence, Home Affairs and Immigration and Population, which led to the development of standard operating procedures on age verification. At least 371 former child soldiers were released from the Tatmadaw during the reporting period, although 39 new cases of recruitment of child soldiers were also reported during 2014. In collaboration with the Government, the United Nations and its partners provided reintegration assistance to children who had been released. The United Nations also continued its engagement with the Government and other parties to the conflict to monitor and report on the recruitment and use of children as soldiers and other grave violations against children. My Special Representative for Children and Armed Conflict, Leila Zerrougui, visited Myanmar from 12 to 17 July 2015 to assess the impact of the conflict on children and engage in dialogue with the Government, in order to advance efforts to implement the joint action plan. She also met with several of the listed ethnic armed groups to discuss preventing and ending child recruitment and use.

33. While I have continued to advocate for the establishment of an office of the High Commissioner for Human Rights with a full mandate in Myanmar, only limited progress has been achieved. In addition, the level of cooperation of the Government with the Office of the United Nations High Commissioner for Human Rights (OHCHR) has also diminished, including through visa restrictions for OHCHR staff members, which has limited its capacity to provide full support to the Government in addressing human rights issues concerns. Nevertheless, OHCHR continues to engage the Government on policy dialogue, advocacy, technical cooperation and capacity-building in a number of areas.

E. Humanitarian situation

34. There are currently an estimated 540,700 people in need of humanitarian assistance as a consequence of unresolved conflict or intercommunal violence throughout Myanmar. Fighting in Kachin State and northern Shan State has displaced nearly 100,000 people since 2011. A continued lack of distinction between civilians and combatants, movement restrictions that prevent the timely access of civilians to safety, security and material assistance, forced recruitment and harassment and violence against the civilian population remain of particular concern. Reports suggest that the resurgence of conflict and resulting civilian displacements have also heightened the risk of sexual violence. Cross-border trafficking for the purpose of sexual exploitation, exacerbated by poverty and the breakdown of community structures, has also been reported. In March and April 2015, cross-line missions delivered assistance to over 12,000 internally displaced persons in non-government areas in Kachin. Authorization to proceed with the next series of cross-line convoys is pending. More sustained, predictable and flexible access by humanitarian organizations to all affected communities in Kachin and northern Shan States is essential to meet their needs adequately. The required humanitarian access can be achieved by easing the current travel authorization system and allowing international organizations to establish offices and full-time staff in areas beyond government control. Since the beginning of 2015, the United Nations has verified a total of 6 children killed and 13 injured in Kachin and northern Shan by mines and explosive devices or in crossfire.

35. Fighting in Kokang has displaced an estimated 60,000-70,000 people mostly to China, northern Shan State and the Wa Self-Administered Division. The Myanmar Red Cross Society has had access to Kokang and provided assistance to victims, although two of its convoys were attacked on 17 and 21 February 2015, causing the death of one volunteer and injuries to staff and civilians.

36. In Rakhine, over 400,000 people remain in need of humanitarian assistance, including about 130,000 Rohingya in protracted displacement from the intercommunal violence in 2012. Ongoing restrictions on the freedom of movement of the Rohingya, including internally displaced persons, continue to adversely impact their access to health, education and livelihoods. There have, however, been some much needed improvements affecting a small number of the internally displaced persons. Between March and June 2015, the Government gave approximately 10,000 people cash grants of $1,000, or building materials of that value, for the construction of individual temporary houses. Another 4,000 families received similar assistance following discussions and agreement with the Office of the United Nations High Commissioner for Refugees (UNHCR) and donors. Based

on the assessment of the United Nations, thus far the Government has consulted the families during the relocation process and the return of those people to their original plots has been voluntary. More returns and relocations are planned, pending release of additional funds from the central Government and financial assistance from donors. That is a positive move towards ending internal displacement and in line with what humanitarian agencies have been requesting. The United Nations will continue to advocate for a continuous emphasis on return to places of origin. At the same time, the Government has said that the houses are "temporary" and that any "permanent" housing remains contingent on the citizenship verification process. Although there has been some progress on returns for internally displaced persons who were living in longhouses, but who never left their villages of origin, there has not yet been progress on return for the majority of those internally displaced persons who were forced to leave their villages of origin in 2012 and who have been living in camps ever since.

37. The lack of progress on the broader issues of statelessness and institutionalized discrimination affecting the Rohingya continues to render them vulnerable. The problem is further compounded by the lack of overall development of Rakhine State, which remains the second poorest state and which adversely impacts both Buddhist and Muslim communities. While the economy of the country is growing at around 8 per cent per annum, the economy in Rakhine has stagnated. Although immediate development assistance should be scaled up, conditions for development are still very difficult, given the heightened nature of the intercommunal conflict and the deep sense of distrust and resentment of many Rakhine Buddhists toward international workers. The United Nations is engaged with the local authorities on a gradual scaling-up of development assistance and building the capacity of the local government to provide equitable public services in order to promote peaceful coexistence and social cohesion.

38. The desperate conditions in Rakhine have compelled many Rohingya to continue to risk their lives and make perilous sea journeys, using smugglers, to Thailand, Indonesia and Malaysia, often becoming prey to trafficking rings. More than 25,000 people, reportedly from Bangladesh and Myanmar, departed irregularly by sea in the first quarter of 2015, more than double the number for the same period in 2014. Many remain stranded at sea in desperate conditions. Based on survivor accounts obtained by UNHCR, many people may have died at sea during the period, as a result of starvation, dehydration or abuse by boat crews. As of June 2015, UNHCR and the International Organization for Migration reported that over 2,600 migrants were still stranded at sea. Some of the boats were reported to have been adrift for more than two months with limited food and water on board. In response to an international outcry and calls on the affected countries to prioritize saving lives, several boats have been rescued. On 22 May 2015, a boat with over 200 people in it was rescued off the coast of Rakhine State by the Myanmar Navy. Most of those victims were identified by the authorities as being from Bangladesh. A senior United Nations delegation visited the first two rescued vessels and migrants. On 29 May, the Myanmar Navy intercepted another boat with over 700 people on board drifting off the coast of Ayeyarwady region. The boat was towed to Maungdaw in northern Rakhine, where the survivors disembarked on 3 June. Among those rescued were several Rohingya women and children who had been on the boats for up to three months in deplorable conditions and experiencing abuse. Those rescued are receiving assistance from State authorities, United Nations

agencies and international non-governmental organizations. Some 195 Rohingya from Rakhine State have reportedly returned to their villages without repercussions, while another 187 men and boys, verified as Bangladeshi, were repatriated. The process of verification and repatriation or return of the remaining individuals continues.

39. At the end of July, cyclonic storm Komen and heavy monsoon rains caused major flooding in Myanmar, leading to the death of at least 88 persons and affecting more than 330,000 people at the time of writing. The United Nations and humanitarian partners have stepped up their support for national relief efforts, providing food assistance, shelter, water and sanitation, and access to emergency health care. Damage to crops and arable land is likely to disrupt the planting season and pose a risk to long-term food security. The United Nations Central Emergency Response Fund released around $9 million to support some 160,000 people in Rakhine State, Chin State, Sagaing Region and Magway Region with life-saving assistance.

F. Communal situation

40. The climate of distrust among the communities in Rakhine and elsewhere remains worrisome. In Rakhine, the separation of communities in the aftermath of the intercommunal violence in 2012 may have averted a further eruption of violence, but it has also entrenched already existing fears and animosities. Elsewhere in the country, the rise of anti-Muslim sentiment and antagonism towards international organizations, including the United Nations, has been promoted by extremist groups, such as the 969 Movement and MaBaTha, and has become a dangerous rallying point for them. At the same time, the ethnic tensions in Rakhine State have also been brought into the broader geopolitics of Buddhism in Myanmar. Social media outlets and populist rallies have been used to spread discriminatory and negative stereotypes, stoke fear and incite religious and racial hatred and violence. In Yangon on 27 May, hundreds of monks and protesters denounced the international community for "bullying" their country into accepting migrants cast adrift at sea. Those groups have also begun increasingly to assert their influence over national policy. In April, radical Buddhists pressured the Government into announcing it would rescind white cards. Apart from spearheading the drafting of the controversial "race and religion protection bills" targeting religious minorities, the MaBaTha also mounted a campaign of public demonstrations to pressurize Parliament to adopt them. On 2 June 2015, a court sentenced writer and official of the National League for Democracy, Htin Lin Oo, to two years' imprisonment with hard labour after a group called the Patriotic Buddhist Monks Union denounced a speech he made in October 2014 criticizing militant Buddhism. In early July, under pressure from the aggressive "Save the Shwedagon" campaign led by MaBaTha, the Government backed down from plans to build a series of new high-rise developments near the revered Shwedagon Pagoda. Those plans had already been finalized with the developers.

41. Notwithstanding the instances above, there have also been some Government-led, as well as grassroots and civil society efforts at promoting social cohesion and intercommunal harmony. They include the "selfie" campaigns by youth in Yangon encouraging the posting of photographs on social media from friends of diverse religious and ethnic backgrounds, transcending differences, promoting tolerance and

highlighting the strength of diversity in Myanmar society; the video series "Portraits of diversity" that featured ordinary individuals from different occupations across diverse religious backgrounds reaching out to others in the community, helping to resolve everyday issues of childcare, education, social service and so forth; and the *panzagar* or "flower speech" community-level campaign to end online and offline hate speech. Equally notable, in that context, are the initiatives undertaken by the recently established Centre for Diversity and National Harmony, involving interfaith and intercommunal dialogue, including in Rakhine. The United Nations, through my Special Adviser and the Peacebuilding Fund, has supported the Centre in its efforts.

III. Observations

42. Myanmar has come a long way in its reform process. The changes sweeping the country are unprecedented and appear to be shaking society to its core. Not all of them have been viewed as in keeping with the expectations and legitimate aspirations of the people at large. Indeed, serious abuses of human rights continue to occur and the humanitarian and development situation, particularly in Rakhine and ethnic areas, warrant dedicated attention and support. However, the political reforms are gradually taking root and fundamentally transforming the country. The upcoming elections will be a critical juncture in that process. If conducted in a credible, transparent and inclusive way, the elections will help to build confidence in the reform process and demonstrate the commitment of the Government to democracy. The period immediately before and after the elections promises to be one of change and uncertainty. It is my hope that all political leaders in Myanmar will put aside narrow agendas and support the consolidation of democracy in the country. The behaviour of the Tatmadaw will also be critical to the process. My Special Adviser has continued to engage with the Tatmadaw and encourage its constructive role on a range of issues, including political reform and national reconciliation efforts, as well as on the de-escalation of hostilities in the conflict areas. The United Nations remains ready to extend its continued support to Myanmar in these crucial times.

43. As the country gears up for elections, there are deeply troubling signs of communal and religious differences being exacerbated and ultranationalistic and chauvinistic sentiments building up within the country, some even directed toward the United Nations and the international community. As I have said previously, a unified message from the country's political leaders against incitement and hate speech is urgently needed. Over the longer term, appropriate legal structures and policy guidelines will also be needed, alongside the necessary developmental efforts, education and awareness-raising measures, to promote equality, non-discrimination and coexistence. In addition, in Rakhine State I would call on the authorities to undertake determined and purposive action to alleviate discriminatory practices against, and the humanitarian conditions of, the Rohingya in order to assure for them a modicum of dignity and basic human rights.

44. I note with appreciation the progress made by the Government and the ethnic armed groups during the past 18 months in achieving national reconciliation. Despite ebbs and flows in the process, the commitment of both sides to the primacy of dialogue has been exemplary. The last 18 months of negotiation have shown that both sides are willing to set aside mistrust and negotiate their way out of occasional deadlocks. It is my hope that all sides will continue to build on the achievements of

that process and move toward further trust and confidence-building. Reaching sustainable peace in Myanmar will require a long-term vision, patience and perseverance. The United Nations and my Special Adviser remain ready to extend appropriate support to all relevant sides.

45. In that context, the support extended to my Special Adviser in his efforts to reach out to all relevant stakeholders in Myanmar has been invaluable. While reaffirming the need for continued constructive engagement between the United Nations and Myanmar through a coherent and coordinated country programme, I would like once again to invite Member States to assess the feasibility of the continuation of the good offices mandate, including a gradual scaling-down of the mandate of my Special Adviser by the end of 2016, and to consider other regular modes of engagement with Myanmar. If conducted in a credible and transparent manner, the elections later in 2015 will mark a new and decisive chapter in the transition to democracy. Meanwhile, all relevant United Nations entities, including the country team, the various funds and programmes and the Secretariat, will continue to support the country's efforts towards democratization and the fulfilment of human rights and development for all. In that context, I wish to express my appreciation of the diligent efforts, patience and perseverance shown by the country team under the leadership of the Resident Coordinator. I also wish to commend the independent and committed efforts of the Special Rapporteur on Myanmar, Yanghee Lee, whose vigilant observation of the human rights situation has assisted and will continue to assist the Government in fulfilling its human rights obligations. Finally, I wish to express my gratitude for the efforts of my Special Adviser, Vijay Nambiar, whose sustained support to the peace process has helped maintain momentum in that area. While engaging with the authorities on the issues of reform and democratization, he has also continuously drawn their attention to the need for substantive measures to address and prevent further communal polarization in Rakhine, to secure improved economic and humanitarian conditions for the vulnerable and to ensure greater inclusiveness, harmony and trust among the communities there.

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Situation of human rights in Myanmar

Report of the Secretary-General

Corrigendum

Paragraph 13

The fourth sentence *should read*

The European Union, Japan, Switzerland, Norway, the United Kingdom of Great Britain and Northern Ireland, Denmark and the United States of America have also pledged technical and other assistance for the elections.

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Please recycle

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Seventieth session
Item 26 of the provisional agenda*
Agriculture development, food security and nutrition

Agriculture development, food security and nutrition

Report of the Secretary-General

Summary

It is possible for food production to be sustainably increased so as to feed everyone in the world. However, hundreds of millions of people still do not have the means to access enough food to meet their individual dietary energy needs or their micronutrient requirements.

So that the goals related to food security, nutrition and sustainable agriculture can be achieved, universal social protection floors should be established for all, and efforts must be undertaken to provide the means for sustainable livelihoods and resilience.

* A/70/150.

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Contents

		Page
I.	Introduction	3
II.	Progress in eradicating hunger and malnutrition and providing access to food	3
III.	Global initiatives and actions in support of the 2030 sustainable development agenda	7
IV.	Progress in sustainably increasing agricultural productivity	13
V.	Progress in ensuring that all food systems are sustainable	13
VI.	Recommendations	19

I. Introduction

1. In its resolution 69/240 on agriculture development, food security and nutrition, the General Assembly requested the Secretary-General to report to the Assembly at its seventieth session on new developments related to issues highlighted in that resolution and in the previous resolution on the same subject (Assembly resolution 68/233), including follow-up to the 1996 World Food Summit goal of "eradicate(ing) hunger in all countries, with an immediate view to reducing the number of undernourished people to half their present level no later than 2015".

2. Considering the Millennium Development Goal target of "halv(ing), between 1990 and 2015, the proportion of people who suffer from hunger" and the proposed sustainable development goal, which is to "end hunger, achieve food security and improved nutrition and promote sustainable agriculture", the General Assembly in its resolution 69/240 further encouraged member States and all stakeholders to give appropriate consideration to agriculture development, food security and nutrition in the elaboration of the post-2015 development agenda.

3. The present report has been enriched by contributions from the Food and Agriculture Organization of the United Nations (FAO), the World Food Programme (WFP), the International Fund for Agricultural Development (IFAD) and the Coordination Team of the Secretary-General's High-level Task Force on Global Food and Nutrition Security (HLTF), and from numerous stakeholders within the scientific community. The report examines the progress made to date and the challenges that remain in achieving food security and nutrition, sustainably increasing agricultural production and reducing food losses and waste, in accordance with the Secretary-General's Zero Hunger Challenge. It also provides recommendations on how to carry forward the unfinished business of eradicating hunger and malnutrition, as central to the transformative sustainable development agenda for 2030 and as a catalyst for other sustainable development goals.

II. Progress in eradicating hunger and malnutrition and providing access to food

4. Food security exists when all people, at all times, have physical, social and economic access to sufficient, safe and nutritious food which meets their dietary needs and food preferences for an active and healthy life. The four pillars of food security are availability, access, utilization and stability.[1]

5. Since 1990-1992, 216 million people have been lifted out of hunger. Within the same time frame, the prevalence of undernourishment in the developing world has fallen from 23.3 to 12.9 per cent. Seventy-two out of the 129 developing countries monitored by FAO — more than half the total — have reached the Millennium Development Goal hunger target of halving the prevalence of undernourishment between 1990 and 2015, and several more countries are likely to do so by the end of 2015.[2] Extreme poverty — which consists in living on less than

[1] See http://ecsw.org/files/global/world-hunger/news/fao-basic-definitions-of-hunger.pdf.

[2] FAO, IFAD and WFP, *The State of Food Insecurity in the World 2015: Meeting the 2015 International Hunger Targets — Taking Stock of Uneven Progress* (Rome, FAO, 2015).

US$ 1.25 per day — in low- and middle-income countries also fell globally between 1981 and 2011, and the Millennium Development Goal poverty target has been met.

6. Instead of a halving of the absolute number of the hungry in developing regions, by 476 million, there was a reduction in their number by only 221 million, just under half the earlier, more ambitious World food Summit goal. Nevertheless, some 29 countries succeeded in at least halving the number of the hungry. This is a significant achievement, as it demonstrates that sustaining rapid progress in reducing hunger is feasible.

7. However, overall progress in reducing hunger has been highly uneven. Almost 795 million people — 1 in 9 worldwide — remain chronically hungry, lacking sufficient food for conducting an active and healthy life. Over 1 billion people are extremely poor, living on less than US$ 1.25 per day.[2] Since 2010-2012, there has been a reduction in the speed with which undernourishment rates have been falling. The global economic and financial crisis and violent conflict within some countries are among the major reasons for this slowdown.[3]

8. All but 15 million of the world's hungry live in developing countries. Some countries and regions have seen only slow progress in reducing hunger, while the absolute number of the hungry has increased in some cases. Marked differences in terms of undernourishment also persist across regions. Some regions, such as Latin America, East and South-East Asia, the Caucasus and Central Asia and Northern and West Africa, have made swift progress. Progress was also recorded in South Asia, Oceania, the Caribbean and Southern and East Africa.

9. In many of the countries that have failed to achieve the international hunger targets, natural and human-induced disasters or political instability have resulted in protracted crises, with increased vulnerability and food insecurity subsisting among large segments of the population. While sub-Saharan Africa has the highest share of the chronically hungry — almost 1 in 4 — South Asia has the highest number, with over half a billion undernourished. Western Asia alone has seen an actual rise in the share of the hungry compared with 1991, while progress in sub-Saharan Africa, South Asia and Oceania has not been sufficient to meet the Millennium Development Goal hunger target by 2015.[2]

Moving from the Millennium Development Goals to the sustainable development goals on food security and nutrition

10. Despite the shortfall in achieving Millennium Development Goal target 1.C and the failure to come close to achieving the World Food Summit goal of halving the number of the hungry, world leaders are now prepared to renew their efforts through sustainable development goal target 2.1, which is to "end hunger and ensure access by all people, in particular the poor and people in vulnerable situations, including infants, to safe, nutritious and sufficient food all year round" by 2030.

11. In line with the recommendations of the Committee on World Food Security, the FAO Statistics Division has compiled food security indicators aimed at capturing

[3] Ibid.; and World Bank, PovcalNet. Available from http://iresearch.worldbank.org/PovcalNet/index.htm. Last updated 9 October 2014.

various aspects of food insecurity.[4] The suite of indicators was first launched in 2012 and then analysed and further developed in 2013, 2014 and 2015 within the context of *The State of Food Insecurity in the World* reports.

12. In collaboration with the World Bank, FAO has developed the software ADePT FSM which aims at improving the quality, consistency and availability of food security statistics extracted from national household surveys encompassing food consumption data. The derived food security statistics are crucial for assessing and monitoring food security at national and subnational levels and informing food security programmes.[5]

13. The latest global estimates from the United Nations Children's Fund (UNICEF), the World Health Organization (WHO) and the World Bank show that among children under five in 2013, 161 million were stunted, 51 million were wasted, 17 million were severely wasted, 99 million were underweight and 42 million were overweight.[6]

14. Sustainable development goal target 2.2 calls upon the global community to "end all forms of malnutrition, including achieving, by 2025, the internationally agreed targets on stunting and wasting in children under 5 years of age, and address the nutritional needs of adolescent girls, pregnant and lactating women and older persons" by 2030. This target reflects the set of six global nutrition targets set in the comprehensive implementation plan on maternal, infant and young child nutrition, as endorsed by the sixty-fifth World Health Assembly in its resolution WHA65.6 of 26 May 2012. Its aims are, by 2025, to:

(a) Reduce by 40 per cent the number of children under 5 who are stunted (baseline = 162 million, target = 100 million);

(b) Achieve a 50 per cent reduction in the rate of anaemia in women of reproductive age (baseline = 29 per cent, target = 15 per cent);

(c) Achieve a 30 per cent reduction in the rate of infants with low birth weight (baseline = 15-20 per cent or approximately 20 million, target = approximately 14 million);

(d) Ensure that there is no increase in the rate of children who are overweight (as of 2012, 7 per cent of all children were overweight);

(e) Increase to at least 50 per cent the rate of exclusive breastfeeding in the first six months (baseline = 38 per cent, target = $\geq$ 50 per cent);

(f) Reduce and maintain childhood wasting to less than 5 per cent (baseline data = 8 per cent).

15. WHO and partners have created an online tracking tool to help countries adapt the six global nutrition targets to national contexts and monitor indicator progress. The interactive platform allows users to produce country indicator profiles on current status and required progress, explore alternative rates of change and their

[4] FAO Statistics, Food security indicators. Available from http://www.fao.org/economic/ess/ess-fs/ess-fadata/en/#.Vclrc4tbvll. Last updated 9 July 2015.

[5] See http://www.fao.org/economic/ess/ess-fs/fs-methods/adept-fsn/en/.

[6] UNICEF, WHO and World Bank, Levels and trends in child malnutrition: UNICEF-WHO-The World Bank joint child malnutrition estimates (New York, Geneva and Washington, D.C., 2014). Available from http://data.unicef.org/resources/2013/webapps/nutrition#.

impact (what-if analysis), map the latest target indicator estimates globally and for country groups, access summary reports on the six nutrition targets and visualize global target status and trends.[7]

16. The sustainable development goals also comprise at least six goals that address the basic, underlying and immediate causes of malnutrition, with an additional 18 targets that are directly or indirectly related to nutrition outcomes. Reaching sustainable development goal 2 and the interlinked targets of other goals will be critical in achieving a shift to resilient, diverse and productive agriculture and food systems which are environmentally, socially and economically sustainable. For example, target 12.3, which is "(b)y 2030, halve per capita global food waste at the retail and consumer levels and reduce food losses along production and supply chains, including post-harvest losses", and target 15.3, which is "(b)y 2020, combat desertification, restore degraded land and soil, including land affected by desertification, drought and floods, and strive to achieve a land degradation-neutral world", are directly relevant to agriculture development, food security and nutrition.

17. Lessons learned from the Millennium Development Goals efforts show that, while economic growth is an important factor for success in the fight against hunger, it is often insufficient by itself to guarantee access to food. Growth needs to be accompanied by strong political will to end hunger, and special action may be needed to ensure that growth benefits the poor.

18. A joint FAO, IFAD and WFP report published in June 2015[8] estimates that investments of US$ 267 billion per year are needed to end hunger. This implies, on average, an additional US$ 160 annually for each person living in extreme poverty over the next 15 years. The total includes investments in production and productivity-enhancing measures and social protection. The combination would allow hunger to be ended immediately and also create the conditions necessary for the most vulnerable to improve their livelihoods and sustainably escape extreme poverty.

19. Owing to multiple social benefits, including positive impacts on welfare across the rural-urban continuum, economic growth originating in the agricultural sector is at least twice as effective in reducing poverty as growth triggered by any other sector.[9] Thus, a stand-alone global goal on food security, nutrition and sustainable agriculture, coupled with equally ambitious means of implementation, has great transformative potential.

20. In order for the commitment to transform the way in which food is produced and consumed to be fully realized, funding and implementation partnerships will need to play a significant role. Those partnerships must be inclusive, integrated, transparent and accountable if they are to address the key challenges of sustainable development. Furthermore, continued and enhanced collaboration and coordination among Member States, the organizations of the United Nations system, in particular

[7] WHO, Nutrition, global targets tracking tool, 2015. Available from http://www.who.int/entity/nutrition/trackingtool/en/index.html.

[8] FAO, IFAD and WFP, *Achieving Zero Hunger: The Critical Role of Investments in Social Protection and Agriculture* (Rome, FAO, 2015). Available from http://www.fao.org/3/a-i4777e.pdf.

[9] World Bank, *World Development Report 2008: Agriculture for Development* (Washington, D.C., 2007), p. 6. Available from http://siteresources.worldbank.org/INTWDR2008/Resources/WDR_00_book.pdf.

FAO, IFAD and the WFP, and non-State actors will be critical to addressing the root causes of poverty and hunger.

21. Public and private investments should be in line with the Principles for Responsible Investment in Agriculture and Food Systems,[10] endorsed by the Committee on World Food Security on 15 October 2014, and the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security,[11] as recognized in the Addis Ababa Action Agenda of the Third International Conference on Financing for Development (General Assembly resolution 69/313, annex), held from 13 to 16 July 2015.

22. Means of implementation and deliverables, including a financing framework, a redefined global partnership for development, and enabling environments, and a technology facilitation mechanism, have been defined in the section on means of implementation and the global partnership of the 2030 agenda for sustainable development: transforming our world (in particular under targets 2.*a*, 2.*b* and 2.*c*), to be considered at the United Nations summit for the adoption of the post-2015 development agenda (25-27 September 2015, New York), and in the Addis Ababa Action Agenda (in particular in paras. 13, 83, 108, 121 and 123).

III. Global initiatives and actions in support of the 2030 sustainable development agenda

Moving towards zero hunger

23. In recent years, Member States have raised their ambitions regarding hunger. In 2003, at Maputo, the countries of Africa launched the Comprehensive Africa Agriculture Development Programme (CAADP), a major policy framework for agricultural transformation. In 2014, at Malabo, at a summit marking 10 years of the CAADP process, Heads of State and Government of the African Union adopted the Malabo Declaration on Accelerated Agricultural Growth and Transformation for Shared Prosperity and Improved Livelihoods, committing to ending hunger in Africa by 2025 (sect. III.3). In 2005, Heads of State and Government meeting at the Latin American Summit on Chronic Hunger, held in Guatemala, committed to end hunger throughout the region by 2025 by launching the Hunger Free Latin America and the Caribbean Initiative. This commitment has been reaffirmed many times, most recently in the 2015 Summit of the Community of Latin American and Caribbean States. Similar commitments have been undertaken by nations and subregional organizations in Asia. Sustainable development goal 2 thus expresses the will of the global community to end hunger by no later than 2030.

24. Those involved in these developments were galvanized by the launch of the Zero Hunger Challenge by the Secretary-General at the United Nations Conference on Sustainable Development, held in Rio de Janeiro, Brazil, in 2012. The Zero Hunger Challenge unites five elements which, taken together, will end hunger, eliminate the worst forms of malnutrition and build inclusive and sustainable food

[10] Available from http://www.fao.org/fileadmin/templates/cfs/Docs1314/rai/CFS_Principles_Oct_2014_EN.pdf.

[11] See FAO, document CL 144/9 (C 2013/20), appendix D. Available from http://www.fao.org/fileadmin/templates/cfs/Docs1112/VG/VG_Final_EN_May_2012.pdf.

systems in our lifetimes. It brings together different stakeholders to deliver on this common vision. The fact that the Challenge has gained considerable traction and has established a considerable profile within the global development community has led to a groundswell of discussion and action.

25. The Zero Hunger Challenge has stimulated national political support for an end to hunger. To date, 137 countries have committed to work towards zero hunger. Local, national, regional and international bodies and non-State actors are also part of this effort. Indeed, 47 non-State actors and thousands of individuals have declared their commitment to zero Hunger. In the Secretary-General's High-level Task Force on Global Food and Nutrition Security, heads of United Nations funds and programmes, along with the Organization for Economic Cooperation and Development (OECD) and the World Trade Organization, are working together to develop coordinated support for the zero hunger vision as it has been embedded in the new sustainable development goals, especially goal 2 and its interlinked targets.

26. The Zero Hunger Challenge has inspired action at country level and ensured that food and nutrition security and sustainable agriculture have remained high in the global development agenda. Given the comprehensive and universal nature of the zero hunger vision, it has the potential to pay dividends across the sustainable development goals framework. The Secretary-General is committed to continuing to use the Zero Hunger Challenge to mobilize the political leadership and coordinated action needed to deliver sustainable, inclusive and resilient food and nutrition systems within the context of the broader sustainable development agenda for 2030.

Committee on World Food Security

27. The Committee on World Food Security is the foremost inclusive international platform dealing with food security and nutrition issues. This unique multi-stakeholder platform makes the Committee an excellent example of how reformed governance structures can increase their deliberative capacity while being inclusive, participatory and accountable, and helping stakeholders to find the common ground and policy convergence necessary to meet today's food security and nutrition challenges.

28. At its fortieth session held in October 2013, the Committee on World Food Security acknowledged that it should play a leading role in the implementation of the post-2015 development agenda, on aspects related to its core mandate.

29. The establishment of an open-ended working group to analyse how the Committee on World Food Security can support the implementation of the sustainable development goal targets related to sustainable agriculture, food security and nutrition will be proposed for endorsement at the forty-second session of the Committee. At the same session, the Committee will consider also endorsing a global strategic framework for food security and nutrition (GSF 2015) which incorporates the policy recommendations on Food Losses and Waste in the Context of Sustainable Food Systems, Sustainable Fisheries and Aquaculture for Food Security and Nutrition, and the Principles for Responsible Investment in Agriculture and Food Systems, as endorsed at the Committee's forty-first session in 2014.

30. Consultations and negotiations are also ongoing to elaborate a framework for action for food security and nutrition in protracted crises. The final negotiated

version of this framework will be presented for endorsement at the forty-second session of the Committee.

31. The implementation of these voluntary agreements is the primary responsibility of national Governments, with the support of the United Nations system, non-State actors and other regional and international bodies.

Second International Conference on Nutrition and a General Assembly resolution on a decade of action on nutrition

32. The Second International Conference on Nutrition, co-organized by FAO and WHO, was held at FAO headquarters in Rome in November 2014. This high-level intergovernmental conference focused global attention on malnutrition in all its forms — undernourishment, undernutrition, including micronutrient deficiencies, and overweight and obesity. The Conference brought together a total of 164 members of FAO and WHO. More than 2,200 individuals participated, including Heads of State and Government, world-renowned experts and representatives of civil society and the private sector.

33. The Conference was convened to (a) review progress made since the 1992 International Conference on Nutrition), respond to new challenges and opportunities, and identify policy options for improving nutrition; (b) bring food, agriculture, health and other sectors together to enable them to align their sectoral policies for improving nutrition in a sustainable manner; (c) propose adaptable policy options and institutional frameworks that can adequately address major nutrition challenges in the foreseeable future; (d) encourage greater political and policy coherence, alignment, coordination and cooperation among food, agriculture, health and other sectors; (e) mobilize the political will and resources needed to improve nutrition; and (f) identify priorities for international cooperation on nutrition in the near and medium terms.

34. Two outcome documents — the political Rome Declaration on Nutrition (WHO, document EB 136/8, annex I) and the Framework for Action (WHO, document EB 136/8, annex II), a voluntary technical guide of 60 recommendations on how to implement the Declaration — were endorsed by participating Governments at the Second International Conference on Nutrition, committing world leaders to the establishment of national policies aimed at eradicating malnutrition in all its forms and transforming food systems so as to make nutritious diets available to all. The outcome documents of the Second International Conference recognize that food systems have a fundamental role to play in promoting healthy diets and improving nutrition, while reaffirming that health, water and sanitation systems must be strengthened simultaneously to end malnutrition.

35. A vital challenge for global nutrition efforts is to strengthen food, health and sanitation systems while also addressing underlying causes, poverty, discrimination and vulnerability, which contribute materially to malnutrition in all its forms. In the Rome Declaration, Ministers and Representatives of the Members of FAO and WHO assembled at the Second International Conference recommended to the General Assembly "to consider declaring a decade of action on nutrition from 2016 to 2025 within existing structures and available resources". On 6 July 2015, the Assembly adopted resolution 69/310, in which it welcomed the Rome Declaration

and the Framework for Action, and decided to further consider outstanding issues relating to that resolution at its seventieth session.

Comprehensive Africa Agriculture Development Programme/ New Partnership for Africa's Development

36. At the twenty-third ordinary session of the African Union Assembly, held in Malabo on 26 and 27 June 2014, Heads of State and Government of the African Union reaffirmed the Comprehensive Africa Agriculture Development Programme (CAADP) under the New Partnership for Africa's Development (NEPAD) as Africa's key agriculture agenda. In its first decade (2003-2013), CAADP had achieved important gains and provided vital lessons and a foundation for the next decade. By the Malabo Declaration, member States' commitments to implementing a number of essential policy reforms directed towards ending hunger and cutting poverty in Africa in half by 2025 were expanded.

37. To meet these goals, African leaders reaffirmed their intention to devote 10 per cent of their national budgets to agricultural development and agreed to targets such as doubling agricultural productivity, halving post-harvest loss and bringing stunting down to 10 per cent across Africa. The Sustaining CAADP Momentum Results Framework enables Africa to benchmark advances in agricultural performance so as to ensure that progress is being made and monitored continuously. The CAADP Results Framework is an integral part of the African Union Agenda 2063. The CAADP Results Framework 2015-2025 outlines agriculture's contribution to economic growth and inclusive development, increased incomes, improved food and nutrition security, economic opportunities and prosperity, and increased resilience.

Cost of hunger in Africa: the social and economic impact of child undernutrition

38. The Cost of Hunger in Africa is an ongoing study which began in 2010.[12] African Heads of State and Government endorsed the study in 2014 and in the Malabo Declaration urged all African Union member States to consider participation in the study. The Malabo Declaration also requests the African Union Commission, WFP and the Economic Commission for Africa (ECA) and other development partners to expedite the successful completion of the study in the remaining countries.

39. Results of the study as carried out in the first-phase countries (Egypt, Ethiopia, Rwanda, Swaziland and Uganda) indicate the substantial costs that can be attributed to undernutrition while revealing some patterns across participating countries. In all five countries, the highest costs come from the working hours lost due to mortality (countries with high mortality rates show high costs). The second highest costs come from potential productivity lost due to reduced schooling as a result of undernutrition, and from reduced productivity as a result of stunting. Total costs range from 2 to 16 per cent of gross domestic product (GDP).

[12] See http://www.costofhungerafrica.com.

40. Furthermore, some policy implications have been identified. Key findings include the following:

- Undernutrition places an extremely high burden on and further constrains health systems and families through the increased demand for services, e.g., hospitalization and care. In all country situations analysed, the families, and not the health system, bear the majority of the costs.
- Nutrition is a major factor responsible for increasing grade repetition and dropping out in countries with poor educational achievement levels.
- The loss of human capital due to the impact of undernutrition on child mortality rates generates the highest costs to society.
- Addressing child undernutrition, and therefore reducing the barriers to increased education, will facilitate the transition of Africa's societies towards greater urbanization and enable Africa to be better prepared to harness the demographic dividend.

41. The Cost of Hunger in Africa study is contributing to a tipping of the scale towards securing commitment to improved nutrition at the highest political levels on the continent. As a consequence of the study, an additional commitment was made to establish more aggressive goals in the reduction of stunting and to set a target of reducing growth retardation in children to 10 per cent and underweight children to 5 per cent, by the year 2025. This undertaking, known as Africa's Renewed Initiative for Stunting Elimination I — is championed by the African Union Commission.

Global Nutrition Report

42. The *2014 Global Nutrition Report: Actions and Accountability to Accelerate the World's Progress on Nutrition*[13] was launched during the Second International Conference on Nutrition and subsequently presented in several other venues globally. The Report provides a comprehensive overview and analysis of global malnutrition, including the measures being taken to combat it, and also highlights key gaps. The Global Nutrition Report targets civil society organizations, donors, Governments, the business sector, researchers, media and engaged citizens and is intended as a means of empowering nutrition champions at the national level to better inform policy decisions and to strengthen the case for increased resources. The Report is produced by an Independent Expert Group which includes United Nations organizations active in nutrition programming and is led by the International Food Policy Research Institute. The Global Nutrition Report secretariat is hosted by the Institute of Development Studies, Brighton, United Kingdom of Great Britain and Northern Ireland.

Scaling Up Nutrition movement updates

43. The Scaling Up Nutrition movement is a country-led movement of multiple sectors and multiple stakeholders, united in their mission to defeat malnutrition. This unique movement has mobilized Governments, civil society, the United

[13] Washington, D.C., International Food Policy Research Institute, 2014.

Nations system, donors, businesses and scientists to illuminate the importance of good nutrition and to collectively end malnutrition. As of July 2015, 55 countries had committed to scaling up nutrition.

44. The 55 countries leading the Scaling Up Nutrition movement are demonstrating that building an enabling political environment is critical for ending malnutrition. Nutrition transformations are supported by high-level political commitment, effective coordination of actors, having the right evidence-based policies in place, aligning nutrition actions with a set of common results and increased resources. Countries in the movement focus on implementing nutrition-specific and nutrition-sensitive interventions in the context of acknowledging that sectors such as agriculture, water/sanitation, education, social protection, public health and women's empowerment are vital for comprehensively ending malnutrition. In 2015, countries leading the movement continued to build the case for investment in nutrition, acknowledging its fundamental importance for future health and prosperity, and a number of those countries are reporting significant reductions in malnutrition. The Movement continues to provide a unique platform for sharing evidence, impact and effective practices.

Developmental approaches to ending hunger, malnutrition and poverty

45. The role of social protection is addressed in *Achieving Zero Hunger: The Critical Role of Investments in Social Protection and Agriculture* launched by FAO, IFAD and WFP in July 2015, as noted in paragraph 20 above. It provides new data on the total investment towards ending hunger and rural poverty by 2030. The importance of social protection not only in ending hunger but also in helping the rural poor escape from poverty is the subject of the forthcoming *State of Food and Agriculture* report issued by FAO. "Social protection and agriculture" is also the theme of World Food Day 2015.

46. School feeding and possibilities for direct purchases from family farming are examined in a new FAO study entitled *School Feeding and Possibilities for Direct Purchases from Family Farming: Case Studies from Eight Countries*.[14] The study describes a developmental approach to school feeding, including eight case studies that reveal how school feeding programmes in Latin America and the Caribbean can be used to stimulate both local production of food, increasing demand and incomes for family farmers, and local markets, while also encouraging dietary diversification and education. This innovative approach is a concrete example of how a combination of traditional social protection programmes and productive support can lead to improved results in food security and nutrition and also contribute to local development.

[14] Santiago, FAO, 2015. See http://www.fao.org/3/a-i3413e.pdf.

IV. Progress in sustainably increasing agricultural productivity

Ensuring support and access to resources for smallholder and family farmers

47. It has been widely recognized that family farming is key for food and nutrition security, natural resource management and local economies. Therefore, it is essential that the development and implementation of specific food security, nutrition and agricultural policies, programmes, strategies and partnerships include family farmers.

48. The International Year of Family Farming, which was celebrated in 2014, has led to increased political support for family farming and family farms around the world. The evidence base for family farming has been significantly strengthened by the ongoing work of FAO on family farming, especially through the Family Farming Knowledge Platform. The importance of identifying definitions and typologies of family farming and the need to further develop key analyses and indicators for assessing the status of and trends in different types of family farming have been highlighted.

Protection of soil and land resources

49. The key role of soils and land in sustainable development was recognized by the international community in the outcome document of the United Nations Conference on Sustainable Development, in which Heads of State and Government and high-level representatives agreed to strive to achieve a land degradation-neutral world (para. 206), through the declaration of 2015 as the International Year of Soils (General Assembly resolution 68/232) and in the 2030 agenda for sustainable development.

50. To ensure the successful protection of the natural resource base for food security, a broad understanding of and a coordinated approach to the sustainable management of soil resources around the world is necessary. Such an approach can be achieved only through a truly inclusive process which builds upon current scientific knowledge related to sustainable land and soil management, and on traditional practices and knowledge.

51. The Land Degradation Neutrality Fund, launched under the United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, Especially in Africa,[15] in 2015, is an important initiative aimed at supporting the transition to land degradation neutrality through land rehabilitation.

V. Progress in ensuring that all food systems are sustainable

52. Data availability on agricultural productivity (e.g., for measuring target 2.3 of the post-2015 development agenda) and application of sustainable agricultural practices (target 2.4) is insufficient in many rural areas in developing countries.

[15] United Nations, *Treaty Series*, vol. 1954, No. 33480.

53. In the context of the International Year of Family Farming (2014), *The State of Food and Agriculture 2014* estimated that more than 90 per cent of the 570 million farms in the world are considered to be family farms.[16] The contribution of these farms to local, regional and global food security is of vital importance. Swaminathan (2014) highlights how the diversified production systems that are encompassed by family farming constitute a tool for achieving food and nutrition security and ecosystem service conservation.[17] *The State of Food and Agriculture 2012* demonstrated that farmers are themselves the largest investors in agriculture and must be central to any investment strategy.[18]

Fisheries

54. Along similar lines, in the fisheries sector, small-scale producers play a key role in ensuring food security and eradicating poverty. However, the overall development of the fisheries sector, and increased pressure from other sectors (including energy, mining, industry and infrastructure development) which often exert stronger political or economic influence, have contributed to a decline in aquatic resources and threats to aquatic habitats, ecosystems and small-scale fisheries.

55. For marine and inland fisheries, the main issue is to sustainably manage fish stocks and ecosystems, within a dynamic environment subject to climate fluctuations and change, in such a way as to maximize harvests without compromising future yields and ensure the fair distribution of benefits. Marine and inland fisheries are also confronted with competition from other activities (economic and recreational) and with various environmental risks.

56. Changes in global and regional climate will interact with many other factors that govern the distribution and ecology of resources and influence the capacity and performance of the marine fisheries sector with respect to meeting future consumption rates. Unlike most terrestrial animals, aquatic animal species are poikilothermic (cold-blooded) and changes in habitat temperatures will more rapidly and significantly influence their metabolism, growth, reproduction and distribution, with a corresponding stronger impact on distribution and productivity of fishing and aquaculture. The interconnectedness of aquatic systems allows fish species to migrate with shifts in ecosystems conditions. Expected changes in climate patterns and extreme events, sea-level rise, melting of glaciers, ocean acidification and changes in river flows are expected to result in significant changes across a wide range of aquatic ecosystems with consequences in many areas for fisheries and aquaculture.

Agroecology

57. As a farming and landscape approach to improving the resilience and sustainability of food systems, agroecology is gaining momentum and the support of

[16] FAO, 2014. *The State of Food and Agriculture 2014: Innovation in Family Farming* (Rome, 2014).

[17] M. S. Swaminathan, "Zero hunger", *Science*, vol. 345, No. 6196 (1 August 2014), p. 491.

[18] FAO, *The State of Food and Agriculture 2012: Investing in Agriculture for a Better Future* (Rome, 2012).

an increasingly wide range of experts within the scientific community, international organizations and countries. There is a need to further strengthen the evidence base of agroecology, especially regarding successful scale-up and scale-out of agroecological initiatives.

58. Agroecology has been included in national or subnational policies in several countries in Latin America and Europe. Countries and regional bodies such as the Community of Latin American and Caribbean States and the African Union are encouraged to implement public policies designed to support the adoption of agroecological practices by making reference to agroecology and sustainable agriculture in national strategies and action plans.

59. In September 2014, FAO held the first International Symposium on Agroecology for Food Security and Nutrition. Based on the success of the Symposium, FAO committed to facilitating three regional meetings in 2015, in Latin America, Africa and Asia. Implementation of agroecology in Africa is expected to make further headway with the implementation of the new Ecological Organic Agriculture Initiative for Africa. The goal of the that initiative is to mainstream ecological organic agriculture into national agricultural systems by 2025.

60. Owing to their capacity to enable the absorption of more than 100 per cent of the total carbon dioxide (CO_2) produced annually, agroecological, organic and regenerative practices could actively contribute to greenhouse gas reduction.[19] Recently launched by the Ministry of Agriculture of France, the 4 Per mil Initiative: Soils for Food Security and Climate is an important agroecological programme aimed at increasing soil fertility through carbon sequestration in agricultural soils and thereby enhancing food security and adapting agriculture to climate change.[20]

61. To cope with increased pesticide resistance, the use of herbicides has increased substantially over the last few years[21] on the back of a fivefold increase in pesticide expenditures from 1960 to 2008.[22]

Reducing losses and waste

62. Sustainable agriculture and food systems will be vital to eradicating poverty, ending hunger and achieving sustainable development. The June 2014 report of the High-level Panel of Experts on Food Security and Nutrition of the Committee on World Food Security, entitled "Food loss and waste in the context of sustainable

[19] Rodale Institute, "Regenerative organic agriculture and climate change: a down-to-earth solution to global warming" (Kutztown, Pennsylvania, 2014). Available from http://rodaleinstitute.org/assets/RegenOrgAgricultureAndClimateChange_20140418.pdf.

[20] France, Ministère de l'Agriculture, de l'Agroalimentaire et de la Forêt, "COP21: '4 pour 1000' — un programme de recherche international sur la séquestration du carbone dans les sols". Available from http://agriculture.gouv.fr/cop21-4-pour-1000-un-programme-de-recherche-international-sur-la-sequestration-du-carbone-dans-les.

[21] Charles M. Benbrook, "Impacts of genetically engineered crops on pesticide use in the U.S.: the first sixteen years", *Environmental Sciences Europe*, vol. 24. Available from http://www.enveurope.com/content/24./1/24.

[22] Jorge Fernandez-Cornejo and others, "Pesticide use in U. S. agriculture: 21 selected crops, 1960-2008", USDA Economic Information Bulletin, No. 124 (Washington, D.C., U.S. Department of Agriculture, Economic Research Service, May 2014).

food systems", demonstrated that a food systems perspective is necessary which "gathers all elements ... and activities that relate to the production, processing, distribution, preparation and consumption of food, and the output of these activities, including socioeconomic and environmental outcomes".

63. Existing solutions for reducing losses are dependent on increased use of energy for preservation, which often might not be feasible and must be weighed against the benefits of reduced food loss and waste[23] (including reduced losses of water, land, energy and other natural resources used for producing food that is not consumed).[24] A leading cause of food loss and waste is the standardization of products offered to consumers[25] coupled with unsustainable consumer behaviour,[26] further promoted by the low cost of food relative to income in developed countries. In low-income countries, solutions must include the main sectors of small- and medium-scale fisheries, agricultural production and processing.[27] Throughout all food chains, inadequate storage and poor management of perishable products, coupled with poor transportation infrastructure and inadequate information about market demand and prices, continue to constitute a major challenge.[25] Another challenge lies in the fact that solutions are likely to be adopted only if they are deemed profitable or cost-effective by supply chain actors.[23]

64. Investments in pre- and post-harvest loss reduction should take precedence over increases in production. Possible solution areas that are being investigated include that of true costing, which includes externalities in product pricing.[28]

65. Food is lost during all stages along supply chains of capture fishery products, during capture operations, handling and processing, storage, packaging, distribution and consumption. Loss of fishery products reduces the sustainable production of fishery resources, threatening the long-term capacity to provide food, and reduces economic opportunities for the capture fisheries sector. Discards and, to a lesser extent, by-catch, account for significant food loss and wastage in the world's fisheries. Benchmarking and reporting on fisheries by-catch and discards constitute an important step towards the improved utilization of fish and fishery products, reduction of wastage and more effective management of fisheries resources).[29]

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[23] FAO, *Toolkit: Reducing the Food Wastage Footprint* (Rome, 2013).

[24] Ibid.; and FAO, *Food Wastage Footprint: Impacts on Natural Resources — Summary Report* (Rome, 2013).

[25] HLPE, "Food losses and waste in the context of sustainable food systems: a report by the High Level Panel of Experts on Food Security and Nutrition of the Committee on World Food Security" (Rome, 2014).

[26] *Food Wastage Footprint: Impacts on Natural Resources — Summary Report*; and "Food losses and waste in the context of sustainable food systems".

[27] *Toolkit: Reducing the Food Wastage Footprint*; and "Food losses and waste in the context of sustainable food systems".

[28] IFOAM EU Group, "Agricultural externalities: the true price of a product" (Brussels, International Federation of Organic Agriculture Movements EU Group, 2010). Available from http://www.ifoam-eu.org/sites/default/files/page/files/ifoameu_policy_externalities_factsheet_2010.pdf. Author: Lena Wietheger.

[29] FAO, *International Guidelines on Bycatch Management and Reduction of Discards* (Rome, 2011).

Halt biodiversity loss

66. The Crop Trust is an important initiative and partnership which works towards safeguarding global crop diversity. A decline in the population of animal pollinators would have devastating effects on food production and food security, including increases in micronutrient deficiencies, such as vitamin A.[30] Unless policies to promote restoration of refuges, land-use heterogeneity, increased plant diversity and pollinator safety through reduced application of pesticides are implemented, "the ongoing loss of wild insects is destined to compromise agricultural yields worldwide".[31]

67. New estimates (which may be low) of current rates of extinction are about 1,000 times the background rate of extinction.[32] Moving beyond modelling changes in biodiversity, the TEEB study for agriculture and food is currently addressing the issue of translation of the economic value of their ecosystem services. Led by the United Nations Environment Programme (UNEP), TEEB is a global initiative aimed at making "nature's values visible". The goal of TEEB is ultimately to mainstream the values of ecosystem services into decision-making in the agricultural sector.[33]

68. An additional challenge that has advanced to the forefront is the pressures exerted on small-scale farming stemming from the provisions of the 1991 Act of the International Union for the Protection of New Varieties of Plants. Restrictions on seed management systems can lead to a loss of biodiversity and in turn harm the livelihoods of small-scale farmers "as well as weaken the genetic base on which we all depend for our future supply of food".[34] As smallholders rely predominantly on informal seed systems, the restriction imposed by the Act on the use of farm-saved seeds and the prohibitions on their exchange and sale cause considerable concern.[35] Although only a handful of developing countries have implemented plant variety protection, small-scale farmers and other stakeholders are often excluded from participation in developing and reforming plant variety protection laws.

69. In aquaculture (fish farming), the major part of biodiversity is found among wild relatives of farmed species; however, it is threatened by habitat loss and degradation, introduction of invasive species (often by aquaculturists), unsustainable fishing practices and climate change.[36] That biodiversity provides not only the

[30] Matthew R. Smith and others, "Effects of decreases of animal pollinators on human nutrition and global health: a modelling analysis", *Lancet*, vol. 6736, No. 15 (2015), pp. 1-9.

[31] Lucas A. Garibaldi and others, "Wild pollinators enhance fruit set of crops regardless of honey bee abundance", *Science*, vol. 339, No. 6127 (29 March 2013), pp. 1608-1611.

[32] S. L. Pimm and others, "The biodiversity of species and their rates of extinction, distribution, and protection", *Science*, vol. 344, No. 6187 (30 May 2014).

[33] The Economics of Ecosystems and Biodiversity (TEEB) for Agriculture and Food study. See concept note (27 February 2014); information brochure (May 2015) and "TEEB for Agriculture & Food: towards a global study on the economics of eco-agri-food systems" (15 May 2015). Available from www.teebweb.org/agriculture-and-food/.

[34] UNDP, "Towards a human rights-based approach to food security: a self-assessment tool to achieve balanced plant regimes — facilitating farmers' participation to ensure sustainable access to food" (New York, August 2012). Available from www.undp.org/poverty. Cited in Berne Declaration.

[35] Berne Declaration, "Owning seeds, accessing food: a human rights impact assessment of UPOV 1991 based on case studies in Kenya, Peru and the Philippines" (Zurich, Switzerland, October 2014). Authors: Thomas Braunschweig and others.

[36] FAO, *The State of World Fisheries and Aquaculture* (Rome, 2010).

genetic resources for traditional breed improvement in aquaculture, but also ecosystem services of direct relevance to the broader agriculture sector, such as biological pest control and nutrient cycling.[37]

70. The FAO Blue Growth Initiative in support of food security, poverty alleviation and sustainable management of living aquatic resources aims at building the resilience of coastal and riparian communities and restoring the productive potential of oceans and wetlands by promoting international coordination towards strengthening responsible management regimes and practices which can reconcile economic growth and food security with the conservation of oceans and the ecosystems that they sustain. This is achieved by focusing on four components: capture fisheries, aquaculture, ecosystem services, and trade and social protection of coastal communities.

2030 agenda for sustainable development

71. The 2030 agenda for sustainable development sets out a road map towards the achievement of ambitious and universal goals by the global community. The road map charts a path towards greater equity, through addressing inequality and ensuring that no one is left behind. Ending hunger and malnutrition will be at the heart of this agenda. The five elements of the Secretary-General's Zero Hunger Challenge have been reflected in the sustainable development goals, as decided by Member States.[38]

72. Given the universal and integrated nature of the sustainable development goals, investing in sustainable agriculture, food security and nutrition will pay dividends across a range of other goals such as poverty reduction, gender and climate change. While people living in rural areas constitute the largest proportion of those living in extreme poverty, investment in agriculture has been shown to be twice as effective in reducing poverty as investment in any other sector. To deliver on the promise of the 2030 agenda for sustainable Development, sustainable food systems — which not only feed and nourish people, but also deliver increased income and sustainable rural livelihoods — will be needed.[39]

73. The growing population will place additional pressure on the ability of current food systems to feed the world; this pressure will be compounded by the effects of climate change on smallholder farmers and agriculture in general. New approaches focused on how to create sustainable and resilient food systems that address the issues of climate change and food and nutrition security are needed. This may

[37] Cecilia M. Holmlund and Monica Hammer, "Analysis: ecosystem services generated by fish populations", *Ecological Economics*, vol. 29 (1999), pp. 253-268.

[38] Open Working Group of the General Assembly on Sustainable Development Goals, "Open Working Group proposal for Sustainable Development Goals", goal 2, targets 2.1-2.4, and goal 12, target 12.3. Available from https://sustainabledevelopment.un.org/index.php?page=view&type=400&nr=1579&menu=1300. Full report of the Open Working Group has been issued as document A/68/970.

[39] World Bank Group, "Ending poverty and hunger by 2030: an agenda for the global food system", 2nd ed. (Washington, D.C., 2015).

include smart investments in smallholder adaptation which can deliver important mitigation co-benefits.[40]

74. The Addis Ababa Action Agenda of the Third International Conference on Financing Development underlines that investing in agriculture, rural development, and food and nutrition security are of central importance to the success of the 2030 agenda for sustainable development (para. 13). The Zero Hunger Challenge provides a ready-made platform for accelerating advocacy, action and accountability centred around sustainable, inclusive and resilient food systems. The Secretary-General will continue to pursue the Zero Hunger Challenge at the highest political level in order to mobilize leaders and individuals, civil society, communities and the private sector in support of the implementation of this new agenda.

75. The United Nations must stand at the ready and become fit for purpose so as to be able to deliver on a transformative agenda that is relevant, innovative, agile, inclusive, coordinated and results-oriented. In the area of food security, nutrition and sustainable agriculture, the Secretary-General will be assisted by the High-level Task Force on Global Food and Nutrition Security in respect of ensuring an integrated United Nations system response in support of member States' efforts to end hunger and malnutrition once and for all.

VI. Recommendations

76. There is widespread recognition that if increasingly complex challenges are to be faced and the sustainable development goals achieved, then significant efforts will be needed to rethink and reform policymaking as it is currently conducted. In embracing this process, many countries are revisiting their own programmes and seeking means to combine actions carried out in different areas such as health, agriculture, education, gender equality, nutrition, sanitation, water and energy in order to achieve better and more synergistic results. How to effect this transition, however, and overcome the "silo mentality" remains a puzzle to many national decision makers.

77. Lessons learned from different national and regional experiences in promoting food security and nutrition point to the following elements as being common to most successful strategies:

- Scaled-up, pro-poor investment
- Political commitment
- Social participation, especially including smallholder and women farmers
- The combination of productive support and social protection, and linkage between programmes and actions across different sectors

78. In this context, we must emphasize the importance of cooperation among nations, in particular the exchange of experiences through South-South cooperation. Many developing countries face similar agricultural development challenges, and solutions that already exist can inspire positive developments with respect to sustainably increasing agricultural yields, ensuring food security and promoting good nutrition.

[40] IFAD, *The Mitigation Advantage: Maximizing the Co-Benefits of Investing in Smallholder Adaptation Initiatives* (Rome, 2015).

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Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Protection of and assistance to internally displaced persons

Note by the Secretary-General**

The Secretary-General has the honour to transmit to the General Assembly the report of the Special Rapporteur on the human rights of internally displaced persons, Chaloka Beyani, submitted in accordance with General Assembly resolution 68/180 and Human Rights Council resolution 23/8.

* A/70/150.

** Late submission owing to the rescheduling of the official mission of the Special Rapporteur to the Philippines.

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Report of the Special Rapporteur on the human rights of internally displaced persons

Summary

The present report outlines the main activities undertaken by the Special Rapporteur on the human rights of internally displaced persons since his last report to the General Assembly.

The thematic section considers positive practices in governance structures and institutional arrangements for preventing and managing responses to the different stages of internal displacement that can be replicated in different situations while being adapted to national and local contexts.

Contents

		Page
I.	Introduction	4
II.	Mandate and activities of the Special Rapporteur	4
	A. Mandate	4
	B. Country visits	4
	C. Cooperation with international and regional organizations	6
	D. Mainstreaming the human rights of internally displaced persons in the United Nations system	6
III.	Governance structures for internal displacement	7
	A. Introduction	7
	B. Governance for prevention, preparedness and mitigation of displacement	12
	C. Governance for assistance to and protection of internally displaced persons	15
	D. Governance to support durable solutions for internally displaced persons	19
IV.	Conclusions and recommendations	24

I. Introduction

1. The present report by the Special Rapporteur on the human rights of internally displaced persons, Chaloka Beyani, is submitted in accordance with Human Rights Council resolution 23/8 and General Assembly resolution 68/180.

2. Section II of the report provides an overview of the activities undertaken by the Special Rapporteur since his last report to the Assembly. Section III considers positive practices in establishing governance structures for preventing and responding to the different stages of displacement internal displacement that can be adapted to the given national and local contexts.

II. Mandate and activities of the Special Rapporteur

A. Mandate

3. The Human Rights Council, in its resolution 23/8, mandated the Special Rapporteur to address the complex problem of internal displacement, in particular by engaging in coordinated international advocacy and action for improving protection of and respect for the human rights of internally displaced persons; continuing and enhancing dialogue with Governments, intergovernmental, regional and non-governmental organizations and other relevant actors; working towards strengthening the international response to internal displacement; and mainstreaming the human rights of internally displaced persons into all relevant parts of the United Nations system.

B. Country visits

4. Since his last report to the General Assembly (A/68/225), the Special Rapporteur undertook official and working visits to Ukraine (A/HRC/29/34/Add.3), the Central African Republic, Iraq, the Syrian Arab Republic and the Philippines.

Central African Republic

5. The Special Rapporteur visited the Central African Republic from 10 to 14 February 2015, on a joint mission with the Assistant Secretary-General of the Office for the Coordination of Humanitarian Affairs and the Director of Operations of the Humanitarian Aid and Civil Protection department of the European Commission. The delegation was joined by the Independent Expert on the situation of human rights in the Central African Republic.

6. At that time, some 500,000 persons remained internally displaced. He stressed that their plight deserves concerted international attention and that the tragic humanitarian situation must not be forgotten. The delegation witnessed many internally displaced persons, in particular from minority and nomadic groups, who remained trapped by the continued violence and were living in precarious and desperate conditions. The Special Rapporteur emphasized that no one should be prevented from moving to safe locations best suited to their protection needs and that their choices must be respected.

Iraq

7. The Special Rapporteur conducted an official visit to Iraq from 9 to 15 May 2015. He travelled to Baghdad and Erbil to consult with national and regional government representatives and other stakeholders. In his preliminary findings he called on the Government to devote greater resources, planning and attention to the needs of nearly 3 million internally displaced persons. Given the volatile conflict situation, new waves of displacement are likely, requiring preparedness measures which protect the rights of internally displaced persons, including their freedom of movement. Internally displaced persons in collective shelters and unfinished buildings live in precarious conditions, often under the threat of renewed displacement, with inadequate shelter, health care, food, water and sanitation. Urgent measures are required to create adequate living conditions and prevent illness and the spread of disease. The needs of the host communities bearing the brunt of the displacement crisis must be addressed. In light of the significant shortfall in humanitarian funding, the international community must be a reliable and long-term humanitarian partner to Iraq.

Syrian Arab Republic

8. The Special Rapporteur visited the Syrian Arab Republic on an official mission from 16 to 19 May 2015. He visited collective shelters in and around Damascus, in Homs and Lattakia. Over 7 million persons are currently internally displaced, and the prospects of new waves of displacement are high given the instability in many localities. Most internally displaced persons are living with host families and communities, which places a heavy burden on them. Three or four years after their displacement, many in collective centres are reliant on humanitarian assistance, lack employment opportunities and have little prospect of returning to their homes. He urged the Government to allow United Nations and other humanitarian actors to operate freely in areas under its control and where security permits, with unhindered access to all locations and internally displaced populations. The current shortfall in humanitarian funding requires urgent action by the international community to bolster support to humanitarian agencies in Syria.

Philippines

9. The Special Rapporteur undertook an official mission to the Philippines from 21 to 31 July 2015 to assess the situation of internally displaced persons in different regions of the country caused by natural disasters, conflict and development projects. He praised the Government for its responses to the massive internal displacement caused by Typhoon Haiyan and the significant progress in providing transitional and permanent homes to those affected and in restoring livelihood opportunities, as well as policies such as "build-back-better" that are aimed at mitigating the effects of future disasters. However, he expressed concern that attention and resources appear to be waning before durable solutions are fully achieved and that some internally displaced persons remain in dire situations. He urged the Government to follow through on its commitments and devote much-needed attention and resources to internally displaced persons until durable solutions are attained and their futures are secured. He equally expressed concern regarding persistent conflict as a cause of displacement in Mindanao and the situation of indigenous peoples affected by conflict and development projects.

Requests for country visits

10. The Special Rapporteur has made or reiterated requests to visit various countries, including Colombia, Honduras, Nigeria and Mexico. He thanks the Governments of those countries that have already agreed to a future visit by the mandate.

C. Cooperation with international and regional organizations

11. The Special Rapporteur engaged closely with the African Union to promote ratification and implementation of the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention). In November 2014, as a keynote speaker at the African Union Humanitarian Symposium in Nairobi, he discussed effective humanitarian interventions and assistance in conflict-induced displacement situations. In December 2014, he took stock of and urged greater progress on the Kampala Convention at an event organized by the Permanent Delegation of the African Union to the United Nations Office at Geneva marking the second anniversary of its entry into force. From 18 August to 19 September 2015, he undertook working visits to dialogue with government officials and stakeholders in Kenya, South Sudan, Uganda and Zambia as well as the African Union in Addis Ababa on the implementation of the Kampala Convention. In March 2015, he also engaged with the Inter-American Commission for Human Rights regarding internal displacement issues in the Americas.

12. The Special Rapporteur maintained a strong partnership with civil society organizations, which have played an essential role in supporting his mandate. He appreciates the support provided by the Brookings Institution-London School of Economics Project on Internal Displacement and the strategic partnerships with the Joint IDP Profiling Service, the Danish Refugee Council and the Internal Displacement Monitoring Centre.

D. Mainstreaming the human rights of internally displaced persons in the United Nations system

13. The Special Rapporteur continued to support the mainstreaming of the human rights of internally displaced persons within the United Nations system and the wider humanitarian community, notably by participating actively in the work of the Inter-Agency Standing Committee.

14. In September 2014, he participated in a panel entitled "Durable solutions for post-crisis development" at the second World Reconstruction Conference, organized by the World Bank. He stressed the importance of the involvement of development partners to achieve durable solutions. He shared information on challenges and opportunities encountered in developing durable solutions for post-crisis displacement.

15. In October 2014, the Special Rapporteur participated in an event organized by the United Nations Development Programme and the Office for the Coordination of Humanitarian Affairs, "Durable solutions to displacement in urban settings: the case of Haiti", which provided an opportunity to communicate conclusions and

recommendations from his report to the General Assembly on achieving durable solutions to displacement in urban settings, as well as from his mission to Haiti.

16. He addressed the Security Council in October 2014, in a debate entitled "Women, peace and security: displaced women and girls: leaders and survivors". He stressed that internally displaced women face double discrimination as internally displaced persons and as women, and unique human rights challenges owing to the intersection of gender with other factors such as age, group affiliation, disability and their civil or socioeconomic situations. Responses to internal displacement still do not adequately address the specific concerns of women and girls.

17. The Special Rapporteur welcomes the fact that all regional consultations ahead of the World Humanitarian Summit to be held in Istanbul, Turkey, in May 2016 have concluded that the development and/or implementation of regional conventions on protection of and assistance to internally displaced persons was a necessity. He attended two regional consultations in 2015, the Middle East and North Africa regional consultation in March and the Latin America and the Caribbean regional consultation in May. He stressed the necessity of adopting regional instruments and national laws and policies on internal displacement and urged more effective partnerships to respond to emergency needs in urban areas. He plans to work with relevant actors in regions such as Latin America and Asia and the Pacific to promote such instruments.

III. Governance structures for internal displacement

A. Introduction

18. For the third consecutive year, a record number of persons were displaced within their own country. As of December 2014, 38 million persons were internally displaced worldwide by armed conflict, human rights violations and generalized violence;[1] an additional 19.3 million were internally displaced by disasters.[2] Protracted displacement situations have become the new normal; according to the Internal Displacement Monitoring Centre, the experience of conflict-induced displacement lasts an average of 17 years.[3] These shocking statistics signal both our collective failure to protect civilians from forced displacement and our inability to respond in the longer term to the plight of internally displaced persons and their right to be provided with durable solutions.

19. As stated in the Guiding Principles on Internal Displacement, national authorities bear the primary duty and responsibility to provide protection and humanitarian assistance to internally displaced persons within their jurisdiction (principle 3). This underscores that authorities at all levels — national and local — must show leadership in dealing with internal displacement issues, notably by being proactive and having adequate governance structures in place to better prevent, mitigate and respond to internal displacement crises. However, in many instances,

[1] Internal Displacement Monitoring Centre and Norwegian Refugee Council, *Global Overview 2015: People Internally Displaced by Conflict and Violence* (Geneva, 2015).

[2] Internal Displacement Monitoring Centre and Norwegian Refugee Council, *Global Estimates 2015: People Displaced by Disasters* (Geneva, 2015).

[3] See www.internal-displacement.org/blog/2014/a-record-33-3-million-now-displaced-by-conflict-and-violence-worldwide-as-one-family-flees-inside-syria-every-60-seconds.

there is a lack of clarity as to which institutions are mandated to deal with internal displacement, what their roles and responsibilities are, as well as the actions necessary to address the issue appropriately.

20. Internal displacement crises are challenging for authorities at all levels and can quickly become overwhelming when numbers are growing and resources are stretched thin. Effective governance structures are essential to ensure systematic, coordinated and human rights-based responses to internal displacement. The present report serves as a guidance tool to support States in preventing as well as responding in more coordinated, effective and sustainable ways to internal displacement. It is informed by international standards, country visits undertaken by the Special Rapporteur and previous reports by the mandate. It is not a one-size-fits-all model, but offers a blueprint for good governance structures and practices that could be adapted and employed in different situations according to national and local contexts.

21. Displacement, whether as a result of conflict, violence or disaster, is often difficult or impossible to predict. Some countries or Governments have rarely or never experienced mass displacement of populations and so are taken by surprise by displacement events and lack the capacity to respond with appropriate procedures, policies and institutions. Those countries that have frequently experienced displacement as a result of disasters, for example, should be better placed to respond, having already understood the need for systems and procedures to be in place. Much can be learned from those countries in the management of displacement crises.

22. Good governance entails timely and coordinated responses by clearly identified, appropriately qualified and properly equipped and funded bodies. Good governance is a prerequisite for effective prevention of and responses to displacement. Where there is inadequate governance, or none at all, any responses are likely to be ad hoc and uncoordinated, the resources allocated are likely to be inadequate and little or no provision is made by national authorities, leaving internally displaced persons to fend for themselves or rely on non-governmental and international humanitarian responses. With good governance in place, responses are timely, coordinated across all relevant and required actors and effective in meeting the needs and protecting the rights of internally displaced persons.

23. While different phases of a displacement situation require different responses and actions by a diversity of actors, key cross-cutting elements can be identified to ensure appropriate and timely responses. Leadership is essential and should be assumed at a senior level, for example under the Office of the Prime Minister, in order to give the appropriate level of attention and priority to responses. Legal, policy and financial frameworks should be established at the earliest opportunity to provide a legal basis for action and guidance to all actors, with appropriate budgets in place. Coordination and identification of responsibility are essential at an early stage and should be clearly explained to all responders, including with regard to coordination at the national, regional and local levels. Numerous actors, including national human rights institutions and non-governmental organizations, have a role to play in all phases of displacement, by raising awareness on displacement issues and having an advisory role, by collecting data and information and by monitoring the human rights situation and ensuring that the rights of internally displaced persons are respected.

24. Good governance requires the gathering and coordination of expertise, both national and, where necessary, international, to respond rapidly to a displacement situation. The gathering, monitoring and sharing of information is critical for all actors to respond appropriately and to understand the dynamics and dimensions of displacement at the earliest stage. This includes information on who is displaced, how many people are involved, where they went and why and what their immediate needs are. Good governance requires technical awareness and for that awareness to be widely disseminated to responders. Not least, governance of displacement requires an understanding of the human rights of internally displaced persons, including the right to be consulted about decisions affecting them and to participate in solutions intended for them.

25. In his last report to the Human Rights Council (A/HRC/29/34), the Special Rapporteur stressed the need to include internally displaced persons in the post-2015 development agenda and the sustainable development goals. Recognizing that displacement crises, especially long-lasting ones, are not only a humanitarian but also a development challenge, he emphasized that national authorities must include internally displaced persons in their own development agendas and programmes to ensure durable solutions.

26. All responses to internal displacement must recognize the particular dynamics of displacement and the profile of those displaced. In situations of conflict or violence, ethnic or religious minorities may be particularly affected and, consequently, the principles of equality and non-discrimination must be respected at all stages of the response and by all actors. Certain groups may be particularly vulnerable both during displacement and in displacement locations, including women and girls, children, older persons, persons with disabilities and the chronically ill. Responses must be sensitive to their needs and measures put in place to address specific protection concerns, including the need to protect women and girls from sexual violence (A/HRC/23/44).

27. The State may be less able to predict displacement in conflict- or violence-induced situations. It must also be acknowledged that in some cases the State may be complicit in causing displacement, for instance by denying legal status to certain minority groups, leaving them stateless and extremely vulnerable, or by perpetrating or supporting violence against certain population groups. The State may not always be a reliable or consistent actor or partner in responding to displacement. It then falls on the international community to consider the responses afforded by principles of international law and the Charter of the United Nations. In situations of conflict or violence, good governance is essential to ensuring the safety of displaced persons at risk.

28. The Special Rapporteur notes that there are overarching principles and actions that should be taken into account at every stage of displacement and which should guide any response to internal displacement.

National legal and policy frameworks

29. The Special Rapporteur has addressed extensively the need for States to adopt comprehensive national instruments to respond to internal displacement, notably through his country visits and previous reports to the Human Rights Council (see, e.g., A/HRC/26/33 and Corr.1 and A/HRC/29/34). He also stresses that a number of publications provide valuable guidance for developing national instruments on

internal displacement, distilling years of lessons learned and good practices. These include a manual for law- and policymakers[4] and a guide on the development of national instruments[5] published by the Brooking Institution and a handbook on internal displacement for parliamentarians issued by the Inter-Parliamentary Union (IPU) and the Office of the United Nations High Commissioner for Refugees (UNHCR).[6]

30. Over 25 countries so far have adopted specific national instruments on internal displacement. National instruments such as legal and policy frameworks are essential tools for strengthening domestic responses to internal displacement and establishing in law a set of common principles and guidance for all stakeholders, including internally displaced persons themselves, whose rights should be clearly articulated. As stated in *National Instruments on Internal Displacement*: "If properly implemented, a coherent national instrument that clearly allocates responsibilities within the government can build trust and confidence in its actions."

31. Not only must legal and policy frameworks be put in place, but they must be appropriately resourced and implemented in practice. Following his official visit to Iraq in May 2015, the Special Rapporteur highlighted the fact that the valuable Iraqi National Policy on Displacement, formulated by the Ministry of Displacement and Migration in 2008 with national and international partners, was not being implemented in practice and did not currently represent an effective basis for government action. He noted that government responses were consequently ad hoc and that it was vital to update the existing policy and to implement it nationally, with budgets in place and with more effective governance and response structures and institutions to help guide and regulate government action at the national and regional levels.

32. National instruments are critical in guaranteeing effective cooperation and coordination between all stakeholders. National instruments facilitate tailored responses to specific displacement contexts by setting out the State's priorities and activities in support of internally displaced persons and laying out the roles and responsibilities of each ministry or agency with a sectoral interest in internally displaced persons. National instruments should fully incorporate the Guiding Principles and regional instruments to which the country is a party, such as the Kampala Convention, while tailoring them to fit the national and local situation.

33. Following his visit to Ukraine in September 2014, several provincial governments and civil society organizations involved in the response to the displacement crisis caused by conflict in Eastern Ukraine expressed concern that the lack of a law and policy on internal displacement was seriously hampering their responses. A law would clarify the rights of internally displaced persons, establish institutional responsibility, inform policy and programming decisions and, crucially, provide a legal basis for provision of funds at the national and regional levels. The

[4] Brookings-Bern Project on Internal Displacement, *Protecting Internally Displaced Persons: A Manual for Law and Policymakers* (Washington, D.C., Brookings Institution, 2008).

[5] Internal Displacement Monitoring Centre, Norwegian Refugee Council and Brookings Institution-London School of Economics Project on Internal Displacement, *National Instruments on Internal Displacement: A Guide to their Development* (Washington, D.C., Brookings Institution, 2013).

[6] *Internal Displacement: Responsibility and Action*, Handbook for Parliamentarians No. 20 (Geneva, 2013).

parliament of Ukraine adopted a law on the rights and freedoms of internally displaced persons on 20 October 2014.

Adequate resources

34. Good governance requires investment, in terms of both financial and human resources, on the part of the State. For displacement governance structures to be fully operational, a specific budget must be made available, enshrined in law and earmarked specifically for the response to internal displacement. Only if these structures have sufficient funding and have the necessary human resources with expertise on issues related to internal displacement will the response be effective. During his mission to Ukraine, the Special Rapporteur was informed by regional authorities that their financial resources were inadequate to support the immediate and longer-term needs of internally displaced persons and that the legal requirements governing their budgets restricted the use of those funds for the provision of services to internally displaced persons (A/HRC/29/34/Add.3).

35. While national financial resources may be limited or dedicated to other priorities, Governments must fund displacement responses to the best of their ability. In Azerbaijan, the Special Rapporteur noted that a certain percentage of oil revenues is guaranteed for assistance to internally displaced persons (A/HRC/29/34/Add.1). Following his visit to Iraq in May 2015, noting funding shortfalls, he encouraged the Government to consider setting up similar national oil revenue-based funds to assist internally displaced persons during the emergency phase as well as longer-term support to achieve durable solutions.

36. Authorities must also ensure that personnel working on internally displaced persons issues receive adequate training, are sensitized to internally displaced persons' specific needs, including those of particularly vulnerable persons, and are able to respond in a timely way to the concerns of those affected. It is essential that law enforcement and frontline and administrative officials receive training to ensure that they meet international standards when dealing with internally displaced persons. Gender-specific training should also be provided to ensure that the specific rights and protection needs of internally displaced women and girls are responded to in the best possible manner.

Consultation with and participation of internally displaced persons

37. At all stages of displacement, responses must involve full consultation with and meaningful participation of internally displaced persons and other displacement-affected communities, including when formulating policy frameworks and programmes. Internally displaced persons must not be considered simply as passive beneficiaries but as full stakeholders in the design, implementation and monitoring of responses. Internally displaced persons' voices, including those of women and particularly vulnerable groups, must be heard. Internally displaced persons must be consulted on any decision affecting them and consultative bodies and processes must be established as part of displacement governance. This is imperative to ensure protection of the rights of internally displaced persons, for example, their right to freely choose whether to return to their homes or find durable solutions in a location of their choice. During his country visit to Georgia in June 2013, the Special Rapporteur welcomed the active participation of civil society representatives in the formulation of the State strategy on internally displaced

persons, adopted in 2007. He nevertheless noted that the Government should provide internally displaced persons with better information and consult them systematically (A/HRC/26/33/Add.1).

Data and profiling

38. The Special Rapporteur has consistently called for better data and profiling of internally displaced persons. Figures on internally displaced persons tend to vary according to the source, owing to such factors as data-gathering and registration discrepancies and, in some cases, the desire on the part of Governments to distort the extent of displacement. He stresses that registration, profiling and needs assessment exercises are essential in responding effectively to the needs of internally displaced persons. Information such as who is displaced and where, their profile and specific needs, as well as surveys of intent that reveal their desires, are all critical to address their situations in the most suitable way.

39. The following sections describe some of the challenges and positive practices in the governance and management of internal displacement at different phases.

B. Governance for prevention, preparedness and mitigation of displacement

40. According to the Guiding Principles, "all authorities and international actors shall respect and ensure respect for their obligations under international law, including human rights and humanitarian law, in all circumstances, so as to prevent and avoid conditions that might lead to displacement of persons" (principle 5). Furthermore, "States are under a particular obligation to protect against the displacement of indigenous peoples, minorities, peasants, pastoralists and other groups with a special dependency on and attachment to their lands" (principle 9). These principles underline States' obligations to take preventive measures to avoid displacement. However, States often lack adequate governance structures to prevent, prepare for and mitigate the consequences of internal displacement before the onset of a displacement crisis.

41. As emphasized in a study on assessing national responses to internal displacement published by the Brookings Institution and the London School of Economics, "preventing displacement is the most important step that a government can take in exercising its responsibility to protect internally displaced persons. Yet it also is probably the most difficult and the least likely to be taken, both by national authorities and by the international community."[7] While displacement can be difficult to predict, authorities at all levels must be more proactive and innovative, notably by devoting more resources to prevention mechanisms and to mitigation and adaptation measures where displacement is foreseeable or inevitable.

1. Monitoring mechanisms and early warning systems

42. Causes of displacement are manifold, and in some situations they are not clear-cut but overlap. States can benefit from putting in place monitoring and early warning systems to help prevent displacement. Specialized monitoring bodies can

[7] Elizabeth Ferris, Erin Mooney and Chareen Stark, *From Responsibility to Response: Assessing National Approaches to Internal Displacement* (Washington, D.C., 2011).

collect data and carry out risk assessments to map potential displacement threats. In countries where displacement has already taken place, trends and patterns can be recurrent and new internal displacement events can potentially be foreseen. These bodies can alert the Government and other actors of the likelihood of displacement.

43. National human rights institutions, as independent human rights actors, have an essential role to play in preventing conflict-induced displacement and development-induced displacement in particular. One of the roles of national human rights institutions is to closely monitor the human rights situation and, in many cases, human rights violations precede and can trigger waves of internal displacement. In countries where displacement has already taken place and is likely to occur again, for example, countries vulnerable to cyclical disasters or where political instability or conflict has been ongoing for some time, national human rights institutions are valuable in preventing, preparing for and mitigating the consequences of renewed internal displacement.

44. The Kenya National Commission on Human Rights has been active in displacement issues since becoming operational in 2003 (A/HRC/19/54/Add.2). It established regional offices and field monitors and has the responsibility, inter alia, to investigate allegations of human rights violations against internally displaced persons, to advocate on their behalf and to monitor the situation of internally displaced persons living in different settings. As co-chair of the National Protection Working Group on Internal Displacement, the Kenya National Commission on Human Rights played a major role in advocating for the development and adoption of an national policy on internally displaced persons policy.

45. In Colombia, an early warning mechanism was introduced in 2002, under the Office of the Ombudsman. This system was created to monitor conditions that could trigger conflict-induced displacement, human rights violations or other type of violence. When an imminent risk is detected, the Office of the Ombudsman sends a report to the Inter-Ministerial Committee for Early Warning, which would make the final decision whether to issue an early warning notice.[8] However, while the practice is a good one, the Inter-Ministerial Committee has reportedly failed to respond quickly and effectively enough to reports issued by the Office of the Ombudsman warning of displacement.

46. The role of national human rights institutions in prevention can be enhanced if there is an internally displaced persons focal point or a specific unit dealing with internal displacement issues. An internally displaced persons focal point can be responsible for raising awareness of displacement issues and the applicable international and regional standards and for training government officials and other actors to ensure that they understand their obligations under international human rights and humanitarian law, including in relation to specific vulnerable groups. As independent bodies, national human rights institutions are essential channels of communication between authorities and rights holders and can reach out to communities and inform them of their rights, register individual complaints and investigate specific cases so that perpetrators of violations are held accountable.

47. Establishing mediation mechanisms at the community level within diverse or conflict-affected communities can be useful in working towards the prevention of conflict- or violence-induced displacement. While visiting South Sudan in

[8] Ibid.

November 2013, the Special Rapporteur called on the authorities to explore different means to prevent intercommunal violence, including local peace committees, effective policing, grass-roots reconciliation initiatives, awareness-raising and re-establishment of pastoral governance systems and a system of game rangers to deal effectively with cattle raiding (A/HRC/26/33/Add.3).

2. Disaster risk reduction and management systems

48. Disaster risk reduction is defined as "the conceptual framework of elements considered with the possibilities to minimize vulnerabilities and disaster risks throughout a society, to avoid (prevention) or to limit (mitigation and preparedness) the adverse impacts of hazards, within the broad context of sustainable development".[9] It has a direct link with prevention of internal displacement due to both sudden and slow-onset disasters. As underlined in the Sendai Framework for Disaster Risk Reduction 2015-2030, adopted at the Third United Nations World Conference on Disaster Risk Reduction, held in Sendai, Japan, in March 2015 and endorsed by the General Assembly in its resolution 69/283, "each State has the primary responsibility to prevent and reduce disaster risk" and "disaster risk reduction requires that responsibilities be shared by central Governments and relevant national authorities, sectors and stakeholders, as appropriate to their national circumstances and systems of governance". At the national and local levels, States should "promote regular disaster preparedness, response and recovery exercises ... with a view to ensuring rapid and effective response to disasters and related displacement ...."

49. Authorities at all levels can take a number of measures to establish adequate disaster risk reduction and management systems. Some countries have established specific legal and policy frameworks on disaster risk reduction and management with a strong focus on displacement risk. Where disaster risk reduction systems already exist, they should be reviewed to ensure that they adequately integrate displacement issues. Disaster risk reduction and management strategies should also be mainstreamed across government bodies and forums established at the national and local levels to build awareness about disaster risk and disseminate specific information.

50. The Special Rapporteur noted in his report on climate change and internal displacement, "early warning mechanisms can be instrumental in minimizing damage and loss of life, as well as displacement" (A/66/285, para. 49). However, taking the example of the famine in Somalia in 2011 that resulted in waves of displacement and for which an early warning was issued some months before, he noted systemic difficulties for some States and the international community in responding proactively to early warnings to prevent a disaster, even a slow-onset disaster, and minimize its adverse impacts on populations. He reiterates that technical mechanisms such as early warning systems must be combined with strong political will and responsive governance systems that implement preparedness, disaster risk reduction and other adaptation measures in a timely manner.

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[9] United Nations Inter-Agency Secretariat of the International Strategy for Disaster Reduction, *Living with Risk: A Global Review of Disaster Reduction Initiatives, 2004 version*, vol. I, United Nations publication, Sales No. GV.E.03.0.2.

3. Mitigation and preparedness measures

51. Those States with a history of displacement due to disaster or with histories of internal conflict should be proactive and have displacement preparedness measures in place. Where the occurrence of disaster is cyclical, adequate preparedness and mitigation measures must be explored to prepare for potential displacement flows. The Cancun Adaptation Framework, adopted by the Conference of the Parties to the United Nations Framework Convention on Climate Change, held in Cancun, Mexico, in 2010, invites Parties "to strengthen and, where necessary, establish and/or designate national-level institutional arrangements, with a view to enhancing work on the full range of adaptation actions, from planning to implementation". These include displacement-related adaptation measures. During his visit to South Sudan, the Special Rapporteur called on the authorities to explore and implement effective disaster risk reduction and mitigation measures, especially in areas prone to repeated disaster (A/HRC/26/33/Add.3).

52. In some cases displacement can be predicted to result from actions taken by Governments, which should therefore put appropriate measures in place. For example, development projects have displaced millions of people in all regions. Development-induced displacement requires careful management and consultation with the internally displaced persons and other affected communities. However, this is rarely done, resulting in violations of human rights, including forced displacement and violence. International standards must be adhered to, notably the Indigenous and Tribal Peoples Convention, 1989 (No. 169) of the International Labour Organization, which requires obtaining the free, prior and informed consent of indigenous peoples regarding issues affecting them and their ancestral lands and territories. The basic principles and guidelines on development-based evictions and displacement (A/HRC/4/18, annex I) developed in 2007 by the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living provide valuable guidance to assist States in the development of policy and legislation to prevent forced evictions.

C. Governance for assistance to and protection of internally displaced persons

53. The Government has the primary responsibility, at the national, regional and local levels, to protect and assist all internally displaced persons who fall under its jurisdiction, without discrimination. Once displacement has taken place, appropriate early responses require such elements as rapid provision of appropriate shelter and humanitarian assistance, protection measures to ensure safe and organized transit to secure locations and safety at those locations and mobilization of specialist national personnel, including military, police and civil authorities. The immediate response can be highly challenging and requires the rapid mobilization of multiple resources.

54. In some of the countries visited by the Special Rapporteur, authorities recognized that they had been caught unprepared by internal displacement and that it took them some time to put adequate institutional arrangements in place to respond to the needs. The first few days and weeks of a displacement crisis are critical and time could more profitably be used if countries already have effective structures in place. In the following paragraphs the Special Rapporteur analyses, on the basis of information gathered in different displacement situations, good

practices in governance structures put in place to assist internally displaced persons in emergency situations.

1. Designation of a national institutional focal point

55. The response by national authorities to internal displacement would benefit from the appointment or establishment of an institutional focal point to take the lead in coordinating responses to internal displacement. Such a focal point could take the form of a dedicated ministry, department, agency or other expert body and would have the authority to oversee the national and local responses, supervise all efforts and ensure coordination with relevant authorities while avoiding duplication. Establishing the focal point at the most senior level, for example under the Office of the President or Prime Minister, would give the necessary authority, resources and political weight to its activities.

56. States that have ratified the Kampala Convention are explicitly required, under article 3, to designate an authority or body, where needed, responsible for coordinating activities aimed at protecting and assisting internally displaced persons and assign responsibilities to appropriate organs for protection and assistance, and for cooperating with relevant international organizations or agencies, and civil society organizations, where no such authority or body exists.

57. The Special Rapporteur notes that the lack of such an institutional focal point has a direct impact on the response of national authorities to the displacement crisis, ultimately affecting the internally displaced persons themselves. Duplication of tasks, lack of communication between different bodies and the lack of a common understanding of who is doing what and where could severely undermine collective efforts to respond to the situation. As the central body under which all other bodies and agencies operate, the focal point has a holistic view of the response and can ensure smooth management of a crisis which can quickly become overwhelming when no coordination mechanism exists.

58. The governmental focal point could be responsible for co-chairing an inter-agency or inter-ministerial committee on internal displacement issues to ensure that the specific needs and rights of internally displaced persons are included in the sectoral laws, policies, plans and programmes of relevant ministries at the national and local levels. As the official voice of the Government on displacement issues, the institutional focal point would also be the key interlocutor with the international community and other stakeholders and would participate in relevant meetings of international agencies.

59. In Kenya, the Ministry of State for Special Programmes was designated as the institutional focal point responsible for internal displacement issues, including the resettlement of internally displaced persons and the coordination of disaster risk reduction programmes during the 2007/08 post-election violence. However, on his follow-up mission to Kenya in June 2014, the Special Rapporteur found that the Ministry of Devolution had been established instead as the institutional focal point for internally displaced persons under the new Constitution of 2010 while the former Ministry of State for Special Programmes became the Department of Social Programmes within the Ministry of Devolution.

60. The role of the focal point could also include developing a consolidated information management system to coordinate the collection of relevant information

on the displacement situation, mapping and tracking the movements of the displaced populations from the onset of the emergency until the achievement of a durable solution and ensuring a continuous flow of information between actors involved in the response. The focal point should also have overall responsibility for ensuring timely identification, registration and profiling of internally displaced persons, in close collaboration with other national bodies and, where necessary, United Nations agencies and other international organizations involved in the humanitarian response.

61. The national institutional focal point has the critical role of planning, managing and coordinating protection-related activities and programmes, including the provision of immediate relief and assistance. While delivery of services on the ground will fall to other designated implementing actors, having an institutional focal point as the sole entity responsible for supervising all the efforts is critical.

2. Establishment of inter-agency mechanisms

62. States could consider establishing an inter-ministerial or inter-agency committee responsible for ensuring a common understanding at the inter-ministerial level of the internal displacement situation, including the challenges facing the different ministries in terms of immediate response and potential obstacles to durable solutions. Such a committee or similar structure should have clearly defined roles, functions, responsibilities and channels of communication in relation to the institutional focal point. The institutional focal point has a political and supervisory role whereas the inter-agency body represents the operational side of the response.

63. Such a body could coordinate at the national level the responsibilities of each line agency or ministry. It would also be responsible for maintaining a clear division of institutional roles and responsibilities between government bodies. This body should be composed of representatives of different ministries with sectoral responsibilities for internally displaced persons, key national and international agencies and representatives of internally displaced persons. Such mechanisms are essential to ensure holistic, cross-agency responses that recognize, for example, the important relationship between housing and employment and livelihood, which requires cooperation across agencies.

3. Role of line ministries and other bodies with sectoral responsibilities towards internally displaced persons

64. When responding to the needs of internally displaced persons, a number of key ministries are directly concerned as they have sectoral responsibilities. These ministries should be involved in the response from the very onset of the emergency and should be represented in any inter-agency mechanism where their role should be discussed in relation to their sectoral counterparts. During his country visits, the Special Rapporteur has met with line ministries that have direct links to the humanitarian response and are key interlocutors when it comes to the provision of assistance, such as ministries of health, education, labour, social affairs, women's affairs, internal affairs and defence.

65. Each relevant ministry and body must increase its focus on and allocate dedicated resources to the specific needs of internally displaced persons. Line ministries should work in coordination with the institutional focal point and the inter-agency body to implement, according to their mandates, the priorities and

strategies developed by those bodies. Ideally, line ministries will establish their own internal focal points, departments or units with dedicated responsibility for internally displaced persons to ensure that adequate attention, expertise and resources are provided.

66. Line ministries should review their sectoral laws and policies to ensure that they include internally displaced persons and displacement-affected communities, including their specific rights, needs and vulnerabilities, and adapt laws and policies accordingly so that they are appropriately tailored to the situation. These ministries should review their planning and programming under sectoral laws and policies to ensure that internally displaced persons and displacement-affected communities are able to access and benefit from such programmes on an equal basis with the non-displaced populations.

4. Role of local and other subnational authorities

67. In decentralized or devolved systems, subnational, regional and local authorities often play an essential role in responding to internal displacement. These authorities are often the first point of contact with internally displaced persons and are the ones to which internally displaced persons turn first for assistance. It is therefore critical that local authorities be easily identifiable, have clearly defined responsibilities and be fully included in national coordination mechanisms. As the counterpart of national authorities at a specific location and of internally displaced persons communities themselves, local authorities should participate fully in all decision-making.

68. A joint study on internal displacement in the region of the Economic Community of West African States (ECOWAS) found that in decentralized States, "coordination should be vertical as well as horizontal, in the sense that it should not only facilitate decision-making among the various relevant actors at the central level but also ensure that clear guidance, follow-up actions, and information flow smoothly between those actors and regional and/or local coordination bodies".[10] National authorities must ensure that local authorities have the necessary resources and expertise to function efficiently and are not overburdened during the response.

5. Interaction with international actors

69. Once internal displacement occurs, authorities can be quickly overwhelmed and can lack resources to respond adequately to the immediate needs. The international community has a complementary role, providing assistance to those in need where States are unable to do so. It is essential that Governments recognize their need for international assistance and facilitate that assistance as quickly as possible. This requires granting full access to humanitarian assistance to all regions affected by displacement and all communities of internally displaced persons. Barriers or restrictions have sometimes been imposed, in particular in conditions of conflict, which can jeopardize the protection of internally displaced persons.

70. During times of emergency, coordination is critical to minimize gaps and overlaps in the delivery of assistance by humanitarian organizations. The cluster approach was introduced in 2005, after the reform of the humanitarian agenda,

[10] ECOWAS and UNHCR, "Responsibility to respond to internal displacement in the ECOWAS region: case studies of Côte d'Ivoire, Liberia and Nigeria" (March 2015).

notably to enhance the response to the specific needs of displaced populations.[11] The cluster system has been used in more than 30 countries and allows both United Nations and non-United Nations organizations to participate. It is essential that Governments be included in the cluster system and participate in relevant meetings so that once Governments are ready, the response can be handed over to them and the cluster system can step down.

71. In the case of the Philippines, the Government replicated its own cluster system within its emergency management mechanisms. As noted in a Brookings Institution-International Organization for Migration (IOM) study, specific clusters were established, largely in line with clusters established at the global level by the Inter-Agency Standing Committee,[12] and both government leads and international co-leads were identified.

D. Governance to support durable solutions for internally displaced persons

72. While the initial and early crisis stages of the response to displacement require certain actions and governance responses, as displacement becomes more protracted, the response from national authorities must transition to address and respond to ongoing and future needs, in full conformity with the human rights of internally displaced persons. A full assessment must therefore be made of the evolving internal displacement scenario that includes the likelihood and possibility of return to original locations, taking fully into account the wishes and intentions of internally displaced persons and the need to ensure durable solutions. This is essential to put the necessary policy, programme and institutional structures and responses in place.

73. What must be clearly understood is the long-term need for dedicated attention to internally displaced persons and that governance of displacement issues does not end with the physical return or relocation of the internally displaced. Regrettably, it is often assumed by national authorities that return, the closure of camps or cash payments constitutes durable solutions and end the Government's responsibilities towards internally displaced persons; this is not the case.

74. According to the Inter-Agency Standing Committee Framework on Durable Solutions for Internally Displaced Persons, a durable solution can only be achieved when internally displaced persons no longer have any specific assistance and protection needs that are linked to their displacement and can enjoy their human rights without discrimination on account of their displacement. A durable solution can be achieved through either (a) sustainable reintegration at the place of origin (return); (b) sustainable local integration in areas where internally displaced persons take refuge (local integration); or (c) sustainable integration in another part of the country (settlement elsewhere).

[11] For more information on the cluster system, see www.humanitarianresponse.info/fr/coordination/clusters/what-cluster-approach.

[12] Angela Sherwood and others, *Resolving Post-Disaster Displacement: Insights from the Philippines after Typhoon Haiyan (Yolanda)* (Washington, D.C., Brookings Institution and IOM, 2015).

1. Working group or task force on durable solutions

75. National authorities should establish effective and accountable mechanisms, such as a working group or task force, with responsibility for overseeing and supporting programmes for durable solutions. These mechanisms should be composed of different groups of internally displaced persons, line ministries and relevant governmental and international technical agencies, such as development actors, and representatives of the international community as well as local authorities. They should be responsible for developing and implementing legal and policy frameworks and strategies in support of durable solutions and should monitor the extent to which the solution chosen by internally displaced persons, i.e. return, local integration or resettlement elsewhere, has been achieved.

76. During his country visit to Serbia, including Kosovo, the Special Rapporteur recommended that the Government establish a governmental protection working group to implement durable solutions, which should include the Commissariat for Refugees and Migration, the Office for Human and Minority Rights, relevant government line ministries, bilateral and multilateral partners and representatives of internally displaced persons (A/HRC/26/33/Add.2). He notes that the protection working group still has not yet been established and therefore reiterates his recommendation to the Government.

2. Sectoral structures

77. The Inter-Agency Standing Committee Framework sets out eight benchmarks to help determine the extent to which a durable solution has been achieved. Working groups or task forces on durable solutions should use these criteria to monitor progress towards achieving durable solutions. The benchmarks are the following: safety and security; adequate standard of living; employment and livelihoods; restoration of housing, land and property; access to documentation; family reunification; participation in public affairs; and effective remedies, including access to justice.

78. While specific mechanisms in support of durable solutions would lead on the matter, the Special Rapporteur notes that a number of other structures with sectoral responsibilities, such as mechanisms focusing on housing, land and property restitution or reconciliation mechanisms, can contribute to support the search for durable solutions and can help the working groups or task forces in their work. Where possible, structures to support durable solutions should avoid duplication with pre-existing structures and durable solutions should be mainstreamed into other structures. The Special Rapporteur analyses below some structures with respect to the eight benchmarks set out in the Inter-Agency Standing Committee Framework.

79. A durable solution cannot be said to have been achieved if internally displaced persons cannot enjoy physical safety and security and cannot benefit from the effective protection of national and local authorities, including protection from the threats that triggered the initial displacement or that may cause renewed displacement. It is essential that national and local authorities pay specific attention to the protection of internally displaced persons, maintain monitoring mechanisms to ensure that internally displaced persons are not victims of further violations in their place of return, local integration or resettlement and ensure accountability by receiving complaints and addressing them. The specific protection needs of internally displaced women and girls should be given dedicated attention and it may

be useful to appoint trained gender focal points in different sectors of the police and other law enforcement bodies.

Economic, social and cultural rights

80. For durable solutions to be fully achieved, the economic, social and cultural rights of internally displaced persons must be fully respected and protected. Special measures may need to be implemented to ensure access to education, health services, livelihood opportunities, land and property rights for internally displaced persons, returnees and resettled persons on an equal basis with the non-displaced population. Local authorities have a special and ongoing role and need to work together with internally displaced persons, returnees and resettled persons to make social services more accessible to them. During his visit to Georgia in June 2013, the Special Rapporteur was informed that a revised action plan for the implementation of the State strategy on internally displaced persons 2012-2014 had been adopted. He welcomed the fact that this revised action plan contained a strong focus on socioeconomic measures for internally displaced persons. The action plan mandated a steering committee to, inter alia, support the socioeconomic integration of internally displaced persons, provide them with proper living conditions and durable housing solutions and eliminate their dependence on the State (A/HRC/26/33/Add.1).

81. Solutions to displacement cannot be considered sustainable unless internally displaced persons have equal access to livelihood and employment opportunities. The Special Rapporteur notes the value of adopting a specific policy or strategy on livelihood, in consultation with internally displaced persons themselves and relevant communities, which would address the specific needs of internally displaced persons as well as the needs and interests of displacement-affected communities. National and local authorities should provide internally displaced persons with skills-development opportunities and vocational training so that they can resume their lives and secure sustainable incomes. In Azerbaijan, the Special Rapporteur was informed that some internally displaced persons were provided with employment by the State Employment Service, while others were involved in vocational training or engaged in public works. The National Fund for Entrepreneurship Support also provided preferential loans to internally displaced persons for entrepreneurship investment projects (A/HRC/29/34/Add.1).

Housing, land and property

82. Questions related to housing, land and property are often complex and require effective management. Effective and accessible mechanisms for timely restitution of housing, land and property rights of internally displaced persons must be established for them to achieve durable solutions, regardless of the solution they have opted for. The Inter-Agency Standing Committee Framework states that "the right to restitution or compensation extends to all displaced persons — including men, women and children — who have lost ownership, tenancy rights or other access entitlements to their housing, land and property, whether they have formal or informal titles or rights on the basis of mere uncontested use or occupation ...." The Special Rapporteur also recalls the importance of States implementing the principles on housing and property restitution for refugees and displaced persons, developed by the Special Rapporteur of the Subcommission on Promotion and Protection of Human Rights, Paulo Sérgio Pinheiro (E/CN.4/Sub.2/2005/17, annex), most notably

principles 12.1-12.6 relating to national procedures, institutions and mechanisms for considering restitution claims of displaced persons.

83. As internally displaced persons' lands and properties may have been occupied by others, disputes may arise and national authorities must establish effective mechanisms to resolve them, making sure that the procedures are simplified so that they do not put an additional burden on internally displaced persons. Full consultation with and participation of internally displaced persons and displacement-affected communities in issues related to land reform are essential and key to assessing the extent to which a durable solution has been achieved. Therefore, these mechanisms must be accessible and internally displaced persons must be provided, where needed, with free legal assistance to pursue their claims. As pointed out in the Inter-Agency Standing Committee Framework: "In some cases it may be appropriate to establish special restitution and compensation mechanisms (e.g. a Land Claims Commission) while in others, existing institutions, including traditional property dispute mechanisms, may have the capacity to handle the caseload effectively and impartially."

84. During his visit to Cote d'Ivoire, the Special Rapporteur was pleased to learn that an inter-ministerial technical committee had been established to address land issues. However, it was noted that a specific government focal point on land reform issues would have been more valuable to ensure coordination of national efforts and the participation of internally displaced persons in the process (A/HRC/23/44/Add.1). During his follow-up visit in 2014, he welcomed the efforts undertaken by the Government to resolve disputes over land issues.[13]

Family reunification

85. During displacement, family members may be separated or some may go missing. In both post-conflict and post-disaster situations, national authorities have the responsibility to reunite families and to create specific mechanisms to look into the whereabouts of missing relatives. The Inter-Agency Standing Committee Framework states: "Appropriate tracing is to be undertaken at the earliest possible time to establish the fate and whereabouts of missing relatives and to inform the next of kin of progress made in the investigation and the results obtained." During his visit to Sri Lanka in December 2013, the Special Rapporteur learned that the Government had appointed a commission to investigate the fate of nearly 18,000 people who went missing during the armed conflict. He recommended that it should comply fully with international standards, work in full consultation with the families of the missing persons, extend its coverage to include missing persons/disappearances since May 2009 and make its finding and recommendations public (A/HRC/26/33/Add.4).

Documentation and participation in public affairs

86. Mechanisms to replace lost or other documents should be established at the earliest opportunity. The lack of documentation can be a major barrier to registration, free movement or the ability to access benefits and other assistance. Mechanisms should be accessible and affordable to all internally displaced persons, regardless of their displacement situation. The establishment of local or mobile

[13] See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14881&LangID=E.

documentation services may be required. During his follow-up visit to Côte d'Ivoire, the Special Rapporteur called for the rapid implementation of the law on the registration of births and deaths, which provides for free-of-charge registration. This law is crucial as many children, most of them internally displaced persons, were not registered in the period following the last national elections. In addition, some 80,000-120,000 civil records were destroyed during the crisis.

87. In many cases internally displaced persons have lost their documentation or are still registered in their former places of residence. This can have a detrimental impact and can contribute to further marginalize communities, ultimately impeding their free participation in public affairs. Overcoming this situation may require special measures to be implemented before return, local integration or resettlement. For instance, in a situation where large numbers of internally displaced persons have not returned, it may be necessary to carry out voter registration and education programmes at internally displaced persons sites or to set up special polling stations. The establishment of measures to allow internally displaced persons to vote is essential to protecting their right to political participation.

Justice and reconciliation efforts

88. Effective and accessible mechanisms for justice and reconciliation should be established, with a legal mandate and the capacity to provide internally displaced persons with effective remedies for violations they may have suffered, including those committed by non-State as well as State actors. These should be geographically, culturally and economically sensitive, with simplified procedures to allow victims, regardless of their education, social status, gender and age, to pursue their claims. They should also be sensitive to specific obstacles that internally displaced persons can face, such as loss of documentation, trauma and fear of further victimization. To that end, the Special Rapporteur held joint sessions with the truth, justice and reconciliation commissions in Kenya and Côte d'Ivoire to hear testimonies from internally displaced persons during his official missions in September 2011 and July 2012, respectively.

89. In situations of conflict-induced displacement, the challenges to achieving durable solutions may also include return and reintegration of internally displaced persons to former conflict areas and communities in which different ethnic or religious groups were in conflict. In Iraq, which he visited in May 2015, the Special Rapporteur noted that the return of some minority communities to their homes would require carefully managed and monitored processes of justice, reconciliation and rebuilding of trust between communities in the short, medium and long term, which could require specially trained units, police and other public officials to avoid problems and tensions.

90. States affected by displacement should establish effective legal framework to provide fair compensation or other forms of reparation, where appropriate, to internally displaced persons for damage incurred as a result of displacement, in accordance with international standards. In certain cases, truth and reconciliation commissions have been involved in displacement issues and linkages between such mechanisms and durable solutions can be made. The mechanisms can contribute to ensuring durable solutions, notably by acknowledging and embracing internally displaced persons' narratives and experiences, fostering better relations between displaced populations and displacement-affected communities and making specific

recommendations relevant to the pursuit of durable solutions with respect to housing, land, property restitution and similar issues.[14]

91. In Sri Lanka, the Commission of Inquiry on Lessons Learnt and Reconciliation was established in 2010. Its final report, published in 2011, contains chapters focusing specifically on internally displaced persons. The Commission acknowledged that without medium- and long-term durable solutions for internally displaced persons, a sustainable and all-inclusive reconciliation process could not be achieved. During his visit to Sri Lanka in December 2013, the Special Rapporteur supported the conclusion of the Commission and its recommendation that a uniform State policy be adopted aimed at the resettlement of internally displaced persons and/or integrating them into host communities, reiterating the need to raise awareness among internally displaced persons about the options available to them and to respect their final decision (A/HRC/26/33/Add.4).

IV. Conclusions and recommendations

92. **National authorities bear the primary duty and responsibility to respond to internal displacement. Adequate institutional arrangements must be put in place at all levels in order for the response to be well coordinated and implemented. Without adequate governance structures in place and without the necessary financial resources and expertise, responses to internal displacement are likely to be ad hoc and uncoordinated. A lack of clarity concerning lines of responsibility can potentially lead to confusion and duplication of efforts and can ultimately have adverse impacts on response efforts and, consequently, on the lives of internally displaced persons and their enjoyment of their rights. It is therefore essential for States to establish effective and accountable governance structures at all levels — national, regional and local — to respond to all phases of internal displacement.**

93. **The Special Rapporteur's recommendations are informed by the Guiding Principles on Internal Displacement, the Inter-Agency Standing Committee Framework on Durable Solutions for Internally Displaced Persons and other relevant standards, including the framework for national responsibility for addressing international displacement put forward by the Brookings-Bern Project on Internal Displacement,[15] as well as his own experience of dealing with internal displacement issues in a number of countries. They should be used only as guidance tools, to be tailored to the specific national contexts and displacement situation in any country.**

94. **The Special Rapporteur recommends that States affected by internal displacement:**

(a) **Develop national legal and policy frameworks on internal displacement that set up the institutional response and clearly define the roles and responsibilities of government ministries and other bodies in response to internal displacement and put budgets in place;**

[14] Megan Bradley, "Truth-telling and displacement: patterns and prospects", in *Transitional Justice and Displacement*, Roger Duthie, ed. (New York, International Center for Transitional Justice and Brookings Institution-London School of Economics Project on Internal Displacement, 2012).

[15] "Addressing internal displacement: a framework for national responsibility" (2005).

(b) **Establish national disaster risk reduction and risk management systems which would have a specific focus on internal displacement;**

(c) **Provide training to all relevant local and subnational authorities, which are often the first to be in contact with internally displaced persons, about international standards regarding internally displaced persons and their obligations to protect the human rights and respond to the needs of internally displaced persons;**

(d) **Appoint an institutional focal point within the Government responsible for overseeing the response;**

(e) **Create an inter-ministerial or inter-agency coordination committee to ensure that there is a common understanding of the internal displacement situation and to set priority areas for each body;**

(f) **Ensure that line ministries review their sectoral laws and policies to ensure that the rights and needs of internally displaced persons and displacement-affected communities are included and adapt these laws and policies accordingly;**

(g) **Ensure that all bodies review their planning and programming under sectoral laws and policies to ensure that internally displaced persons and displacement-affected communities are able to access and benefit from such programmes on an equal basis with the non-displaced population;**

(h) **Ensure that national and local bodies have adequate financial and human resources for the discharge of their responsibilities, with the capacity to adapt and to respond to volatile and ever-changing situations;**

(i) **Strengthen support to local authorities, civil society organizations, volunteers and church groups;**

(j) **Invite the Special Rapporteur or other international mechanism with technical expertise on issues relating to internal displacement in order to benefit from technical cooperation;**

95. **The Special Rapporteur recommends that national human rights institutions, civil society and volunteers:**

(a) **Establish dedicated expertise on internal displacement, including specialist focal points, units or departments, as appropriate, to maximize their role and effectiveness in predicting, preventing and responding to internal displacement in cooperation with the Government and other national and international stakeholders;**

(b) **Establish local human rights monitoring mechanisms to ensure monitoring across the country.**

96. **The Special Rapporteur recommends that donor States:**

(a) **Assist States affected by displacement by allocating sufficient funding to support technical cooperation as well as provide other assistance needed in resource mobilization;**

(b) **Continue to support humanitarian and development organizations, non-governmental organizations and international non-governmental organizations working on internal displacement issues.**

97. **The Special Rapporteur recommends that the international community:**

(a) **Provide technical cooperation to States affected by displacement, especially training of bodies in charge of registration, development of national laws and policies on internal displacement and issues related to land and property restitution and compensation;**

(b) **Facilitate transfer of knowledge regarding governance structures in response to internal displacement, notably by identifying good practices and lessons learned from different displacement situations;**

(c) **Assist relevant authorities by bringing to their attention early warnings of displacement and advocate for a proactive response to these warnings;**

98. **Regional human rights mechanisms should establish regional standards on internal displacement and the rights of internally displaced persons. The establishment of regional working groups or regional rapporteurs on displacement should be explored to address and monitor displacement situations in the different regions. Finally, regional mechanisms should develop practical tools to assist national authorities in their responses to displacement, including in the area of displacement management.**

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Item 71 (b) of the provisional agenda*
Elimination of racism, racial discrimination, xenophobia and related intolerance: comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action

Combating racism, racial discrimination, xenophobia and related intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action

Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly the report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Mutuma Ruteere, prepared pursuant to General Assembly resolution 68/151.

* A/70/150.

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Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance

Summary

The Durban Declaration and Programme of Action provide a comprehensive framework for combating racism, racial discrimination, xenophobia and related intolerance. In the present report, the Special Rapporteur focuses on the recommendation made to Member States to collect disaggregated data with a view to effectively combating such discrimination. The Special Rapporteur recalls that States have obligations under international human rights law to collect ethically disaggregated data with a view to fighting discrimination. He expresses concern about the continued absence of data disaggregated by ethnicity and other prohibited grounds of discrimination. The Special Rapporteur notes that the lack of disaggregated data on racist, xenophobic and hate crimes also means that they remain underrecorded, thus contributing to widespread impunity and limited access to remedies for victims. The Special Rapporteur stresses the indispensable role and benefits of collecting such disaggregated data to effectively combat discrimination and implement equality. He also emphasizes how the challenges posed by such data collection exercises can be overcome by observing internationally agreed-upon human rights safeguards.

Contents

		Page
I.	Introduction	4
II.	Activities of the Special Rapporteur	4
	A. Country visits	4
	B. Other activities	4
III.	Disaggregated data: normative framework	5
	A. International framework	5
	B. Regional policy frameworks	8
IV.	Disaggregating data to assess discrimination and foster equality	10
	A. Benefits of data disaggregation	10
	B. Challenges	12
	C. Safeguards on sensitive data	14
V.	Implementing equality data collection and disaggregation	17
	A. Institutional and policy framework	17
	B. Data and the post-2015 development agenda	21
VI.	Conclusions and recommendations	22

I. Introduction

1. The present report is submitted pursuant to General Assembly resolution 68/151. The current mandate holder and his predecessors have all noted in their various thematic and country visit reports the necessity of producing disaggregated data in order to assess accurately levels of discrimination, inequality and progress, and develop adequate policies to redress the situation of vulnerable groups. The Special Rapporteur would like to emphasize that the lack of disaggregated equality and non-discrimination data has led to a serious information gap that limits effective policymaking at the national, regional and international levels.

2. In the present report, the Special Rapporteur wishes to stress again the necessity of collecting data disaggregated by ethnicity on economic, social, cultural, civil and political indicators as an essential means of tackling discrimination and inequality. Collecting non-discrimination and equality data would enable States to identify the patterns of violations and map existing gaps and needs, in order to feed that information into policymaking processes and also evaluate the impact of existing measures. Data is also required to effectively assess and monitor whether Member States respect, protect and fulfil their obligations under international law to combat discrimination.

3. That thematic focus is all the more timely, given that equality is at the heart of the post-2015 development agenda, which also pays due attention to groups subject to discrimination on the basis of ethnicity, colour, sex, age, language, religion, culture, migratory status, political or other opinion, national or social origin, economic situation, birth, disability, or other status. In the proposal of the Open Working Group on the sustainable development goals (A/68/970), targets 17.13 and 17.19 call for the collection of disaggregated data to measure progress while leaving "no one behind", in other words, promote and foster non-discrimination and equality while upholding the universality of human rights and accountability.

II. Activities of the Special Rapporteur

A. Country visits

4. The Special Rapporteur expresses his gratitude to the Government of the Republic of Korea, which he visited from 29 September to 6 October 2014 (see A/HRC/29/46/Add.1) and to the Government of Greece, where he conducted a visit from 4 to 8 May 2015.

5. The Special Rapporteur would like to thank the Governments of Argentina and Australia for providing a positive response to his requests to visit and hopes to visit those countries in 2016. He also thanks the Government of Morocco for its invitation. He further hopes to receive a positive reply before the end of 2015 to his request to visit South Africa.

B. Other activities

6. The activities of the Special Rapporteur between July 2014 and March 2015 are reflected in his report to the Human Rights Council at its twenty-ninth session

(A/HRC/29/46). Since March 2015, the Special Rapporteur has convened a side event on racial and ethnic profiling by law enforcement, which took place in Geneva on 1 July 2015.

7. The Special Rapporteur was invited to an expert meeting on xenophobia convened by the Centre for Migration of the University of Witwatersrand in Johannesburg from 24 to 26 July 2015. He also addressed Strathmore University Law School, Nairobi, at its annual conference on terrorism and human rights on 4 and 5 August 2015.

III. Disaggregated data: normative framework

A. International framework

8. The Special Rapporteur wishes to recall that non-discrimination is a cross-cutting human right norm closely linked and intertwined with the principle of equality, as laid out in articles 1 and 2 of the Universal Declaration of Human Rights, which reassert that all human beings are born free and equal in dignity and rights and enumerate the prohibited grounds of discrimination. Non-discrimination is embedded in all major international human rights treaties, including the International Bill of Human Rights, whose instruments unanimously and explicitly prohibit discrimination, inter alia, on grounds of, race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.[1]

9. Article 1 of the International Convention on the Elimination of all forms of Racial Discrimination, specifically defines racial discrimination which refers to "any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life".

10. In its general comment No. 20 (2009) on non-discrimination in economic, social and cultural rights, the Committee on Economic, Social and Cultural Rights defined discrimination in similar terms, including any treatment nullifying or impairing the enjoyment on an equal footing of the rights in the International Covenant on Economic, Social and Cultural Rights and incitement to discrimination and harassment. The set of human rights treaties, which have been developed to protect the rights of individuals pertaining to particularly vulnerable groups, aim, first and foremost, to protect those individuals from human rights violations resulting from discrimination.[2]

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[1] See Universal Declaration of Human Rights, art. 2, International Covenant on Civil and Political Rights, arts. 2 and 26, International Covenant on Economic, Social and Cultural Rights, art. 2 (2), and the Charter of the United Nations, preamble, articles 1 (3) and 55.

[2] See International Convention on the Elimination of All Forms of Racial Discrimination, Convention on the Rights of the Child, Convention on the Elimination of All Forms of Discrimination against Women, Convention relating to the Status of Refugees, International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the Convention on the Rights of Persons with Disabilities.

11. Although the major international legal instruments do not explicitly refer to data collection as a means for realizing human rights for all on an equal footing, signatory States are requested to take the necessary measures to ensure non-discrimination in the enjoyment of human rights and promote the development of policies and the adoption of specific measures for the implementation of their obligations. Further, States parties are requested to submit reports on the measures they have adopted, which give effect to those rights, while indicating the factors and difficulties, if any, which have affected or are affecting implementation.[3] In that respect, the Committee on Economic Social and Cultural Rights in its general comment No. 1 (1989) on reporting by States parties asserted that the essential first step towards promoting the realization of economic, social and cultural rights was diagnosis and knowledge of the existing situation. It further recommended that States parties monitor the actual situation in order to be aware of the extent to which the various rights were, or were not, being enjoyed by all individuals under their jurisdiction.

12. The Committee also emphasized that the preparation of aggregate national statistics was not sufficient, as special attention should be given to any specific groups or subgroups which appeared to be particularly vulnerable or disadvantaged and that qualitative, as well as quantitative, data were required in order for an adequate assessment of the situation to be made. It further stated that while monitoring was designed to give a detailed overview of the existing situation, the principal value of such an overview was to provide the basis for the elaboration of clearly stated and carefully targeted policies, including the establishment of priorities through an inclusive process fostered by effective sharing of accurate and thorough information with all stakeholders at the national level. More specifically, in its general comment No. 20, the Committee emphasized that, in order for States parties to "guarantee" that the Covenant rights would be exercised without discrimination of any kind, discrimination must be eliminated both formally and substantively, thus requiring sufficient attention to be paid to groups of individuals who suffered historical or persistent prejudice instead of merely comparing the formal treatment of individuals in similar situations. The Committee has advised that national strategies, policies and plans should use appropriate indicators and benchmarks, disaggregated on the basis of the prohibited grounds of discrimination.

13. The Human Rights Committee noted in its general comment No. 18 (1989) on non-discrimination that when reporting on articles 2 (1), 3 and 26 of the International Covenant on Civil and Political Rights, States should also report on whether there remained any problems of discrimination in fact, which might be practised either by public authorities, by the community, or by private persons or bodies. The Committee therefore called for the submission by States parties of information about legal provisions and administrative measures directed at diminishing or eliminating such discrimination. Taken together with the jurisprudence of the Committee on Economic, Social and Cultural Rights, it could be inferred that the collection of disaggregated data on human rights indicators are crucial for monitoring the realization, protection and promotion of human rights for all and upholding the principles of non-discrimination and equality.

[3] See International Covenant on Civil and Political Rights, article 40 (1), and International Covenant on Economic, Social and Cultural Rights, article 16.

14. The international normative framework also provides more precise provisions on the collection of disaggregated equality data.[4] In its guidelines for reports to be submitted by States parties under article 9, paragraph 1, of the International Convention on the Elimination of All Forms of Racial Discrimination (CERD/C/2007/1, para. 11), the Committee on the Elimination of Racial Discrimination asserted that if progress in eliminating discrimination based on race, colour, descent, or national or ethnic origin was to be monitored, States parties, while reporting to the Committee, needed to indicate specific information on the number of persons who might be treated less favourably on the basis of those characteristics. In its general recommendation No. 34 (2011) on racial discrimination against people of African descent, the Committee further requested that States parties conduct periodic surveys on the reality of discrimination against people of African descent and document disaggregated data on, inter alia, the geographical distribution and the economic and social conditions of that specific group, including a gender perspective. It also stressed the necessity of taking into consideration the gender variable, as women pertaining to the groups in question often suffered multiple forms of discrimination.

15. In the Durban Declaration and Programme of Action States were invited to design policies aimed at combating racism, racial discrimination, xenophobia and related intolerance that were based on reliable statistical data. They were specifically requested to collect disaggregated data in order to document practices and inform policy. In paragraph 104 of its outcome document (A/CONF.211/8), the Durban Review Conference recommended that States develop a system of data collection, including equal opportunity and non-discrimination indicators, while in paragraph 103 it recommended that States, that had not yet done so, "establish mechanisms to collect, compile, analyse, disseminate and publish reliable and disaggregated statistical data ... to regularly assess the situation of all victims of racism, racial discrimination, xenophobia and related intolerance". Furthermore, in paragraph 59 it invited Governments and their law enforcement agencies "to collect reliable information on hate crimes in order to strengthen their efforts to combat racism, racial discrimination, xenophobia and related intolerance".

16. A number of special procedures mandate holders working, among others, on minority issues, migrants, human trafficking, food, health and poverty, have addressed the need to collect disaggregated data on human rights indicators related to their respective thematic mandates, in order to delineate the relationship between various forms of discrimination and how it affects the realization of rights, as well as performing stock-taking exercises on the efforts of Member States towards fulfilling their human rights obligations.

17. The *Principles and Recommendations for Population and Housing Censuses*, developed by the United Nations, stipulate that the decision to collect disaggregated data is dependent upon a number of considerations and national circumstances including, for example, the national needs for such data and the suitability and sensitivity of asking questions relating to ethnicity, which are therefore left to the discretion of the State. However, there appears to be a general opinion in favour of disaggregation from a human rights perspective, insofar as it contributes to addressing inequalities and discrimination.

[4] Terminology used by the European Commission to refer to equality- and discrimination-related data.

18. Although, there is no clearly stated human rights obligation for a country to disaggregate data under ethnic criteria, ethnic data could be considered as a component of the right to non-discrimination. The right to be free from discrimination includes the right of access to information which could be evidence to prove discrimination and an argument could be made that data disaggregated by ethnicity is part of such information. The State has a duty to ensure equality and that should be interpreted to include the duty to collect and analyse data disaggregated by ethnicity in order to identify inequality and monitor the effectiveness of measures implemented to remedy imbalances.[5]

19. Because non-discrimination is a cross-cutting human rights principle affecting all aspects of the realization of rights for an individual, subgroups of a population susceptible to being at a disadvantage should be identified while studying the demographic trends, employment practices and opportunities, income distribution, educational levels, patterns and trends of migration, family composition and structure, social support networks and health conditions of a population.

B. Regional policy frameworks

20. At the regional level, article 21 of the Charter of Fundamental Rights of the European Union prohibits discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation and nationality. The European Union anti-discrimination directives prohibit discrimination on the grounds of racial or ethnic origin (directive 2000/43/EC) and religion or belief, disability, age or sexual orientation (directive 2000/78/EC). They prohibit direct and indirect discrimination, harassment, instruction to discriminate and victimization, and require member States to establish efficient sanctions and remedies. The directives also provide protection in a number of key areas of life, including employment, education, social security and health care, and access to and supply of goods and services, including housing (directive 2000/43/EC).

21. Neither of those instruments, however, poses data collection and processing as a condition for monitoring levels of discrimination and inequality. Nonetheless, in its most recent report on the implementation of the two directives, dated 17 January 2014, the European Commission emphasized that, although there is no requirement on member States to collect equality data, the collection and analysis of such data is necessary to fight discrimination and promote equality because it provides evidence of existing discrimination, making it transparent and quantifying it. In its report, the Commission further argued that the collection of data, which is the responsibility of member States, would allow the impact of measures taken for specific groups to be evaluated. It further deplored the fact that the availability of such data remained limited across the region.

22. In its first general policy recommendation on combating racism, xenophobia, antisemitism and intolerance (1996), the European Commission against Racism and Intolerance of the Council of Europe emphasized that it was difficult to develop and

[5] See Kathryn Ramsey, "Disaggregated data collection: a precondition for effective protection of minority rights in South-East Europe", Minority Rights Group International (2006).

effectively implement anti-discrimination policies without good data, which should be collected in accordance with European laws on data protection and protection of privacy, as such information would assist in assessing and evaluating the situation and experience of groups which are particularly vulnerable to racism, xenophobia, anti-Semitism and intolerance.

23. The 1969 American Convention on Human Rights and its 1988 Additional Protocol in the Area of Economic, Social and Cultural Rights prohibits discrimination on the grounds listed above. Article 12 of the 2013 Inter-American Convention against Racism, Racial Discrimination and Related Forms of Intolerance stipulates that "the States parties undertake to conduct research on the nature, causes, and manifestations of racism, racial discrimination and related forms of intolerance in their respective countries, and to collect, compile, and disseminate data on the situation of groups or individuals that are victims of racism, racial discrimination, and related forms of intolerance." Article 15 (iv) establishes the Inter-American Committee for the Prevention and Elimination of Racism, Racial Discrimination, and All Forms of Discrimination and Intolerance to monitor implementation and the compliance of States with their obligations. In that respect, States parties are requested to submit reports to the Committee containing disaggregated data and statistics on groups in situations of vulnerability. The Special Rapporteur welcomes the development of the Convention and strongly encourages member States of the Organization of American States to ratify it.

24. The Inter-American Commission on Human Rights has held that the issue of figures is essential, since "without reliable data, without indicators and periodic measurements, the kinds of political decisions calculated to deal with the discrimination problem cannot be taken. The figures also have an unmistakable political element, since for those affected it means that their invisibility is being reversed and they are being recognized along with everyone else."[6]

25. Article 2 of the African Charter on Human and Peoples' Rights stipulates that "every individual shall be entitled to the enjoyment of rights and freedoms ... without distinction of any kind such as race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status." The collection of data as part of periodic reporting by States has been included in several guidelines, including the reporting guidelines for States parties on economic, social and cultural rights in the African Charter on Human and Peoples' Rights (Tunis reporting guidelines), in which States parties are requested to provide disaggregated statistics on the enjoyment of each right, particularly with reference to groups identified as vulnerable or marginalized, on an annual comparative basis over a period of five years. Submitting States are also requested to provide disaggregated data on the impact of the policies implemented.

26. The African Charter on Statistics, whose principal aim is to provide guidance on developing harmonized development statistics at the continental level, while reasserting State awareness of the need to collect data in order to inform and assess policies, does not make reference to equality data. In that respect the Special Rapporteur would like to underscore the necessity of developing thorough regional frameworks, including a human rights-based approach to the collection of development statistics and indicators, which should systematically aim to accurately

[6] See Inter-American Commission on Human Rights "The situation of people of African descent in the Americas" (2011).

measure levels of discrimination so that the impact of social and economic policy can be assessed.

27. In light of the provisions set out above, it is clear that the collection of disaggregated data on discrimination is an obligation of Member States as a matter of accountability in their capacity as primary duty bearers for the universal realization of human rights for all people under their jurisdiction. The following sections of the report provide details on the implementation, or lack of thereof, of equality data collection and disaggregation, good practices and indications of necessary safeguards for the collection of such data.

IV. Disaggregating data to assess discrimination and foster equality

A. Benefits of data disaggregation

28. As emphasized in the previous section, under the international human rights normative system, there is a strong mandate for the production of statistical information that goes beyond the traditional national aggregates and identifies the most deprived or vulnerable population while measuring inequality and discrimination. Hence, disaggregation of data aims to address the concern that if statistics are not broken down at the required level to support an analysis of discrimination and equality, such measurements would not adequately capture the enjoyment or violation of human rights across context-relevant population groups and would not therefore be reliable indicators in human rights assessments.[7]

29. Disaggregation simply means that data should be broken down into small defined subgroups with identifiable criteria, such as ethnicity, national origin, religion or sex, among others. Hence, data broken down by ethnic groups will reveal inequalities that may exist in the realization of rights among and between different ethnic groups, or whether, for example, some fringes of society are more affected than others by hardship.

30. The Special Rapporteur would like to stress that because minority groups are not homogeneous, ethnic data should be further broken down along the other prohibited grounds of discrimination. For example, as noted by the previous mandate holder, following his visit to the United States of America in 2008, data disaggregated by race and ethnicity produced in paired testing (which allows for a comparison of treatment between whites and persons of colour when they have similar qualifications) has identified subtle forms of direct discrimination as regards housing (see A/HRC/11/36/Add.3).

31. The Special Rapporteur is of the view that the persistence of discrimination around the world can partly be imputed to a lack of implementation of international normative provisions at the national level. He would like to recall that the collection of ethnically disaggregated data and indicators is a fundamental prerequisite and an essential tool for identifying the persons and groups affected by discrimination, as it makes them more visible and helps to understand better the nature and extent to

[7] See Office of the United Nations High Commissioner for Human Rights, *Human Rights Indicators: a Guide to Measurement and Implementation* (2012).

which they are facing inequality. In some cases, disaggregated data enables the recognition of certain groups within a country, whose status is otherwise denied. In some instances not collecting such disaggregated data could equate to denying recognition to certain minority groups within a country and the vulnerable situation those groups face. It also facilitates access to justice for victims of discriminatory practices, which have often turned out to be difficult to prove.

32. Moreover, those statistics allow tailored measures based on empirical evidence, rather than assumptions, to be developed, avoiding the one-size-fits-all trap and thus optimizing the likelihood of policies being designed which would have an effective impact on the welfare of marginalized groups. According to the Millennium Development Goals Report 2015, significant progress has been made, for instance, in the availability of detailed data on indigenous peoples in Latin America as a result of the inclusion of questions on indigenous people in 17 out of 29 countries during the census round in 2010. The collection of detailed data on those groups revealed, among other things, that the proportion of births attended by health professionals was 38 percentage points lower among indigenous women than non-indigenous women in Mexico and 45 percentage points lower in Peru. The availability of those disaggregated data led to the adoption of more effective interventions to reduce inequality. By 2012, more than 80 per cent of births among indigenous women were attended by health personnel in both countries.

33. Collecting data also enables the competent authorities to decide whether affirmative action is needed to bridge inequalities between different groups within society. Census data have also increasingly been used as tools of accountability for assessing the performance of democratically elected Governments in improving the welfare of their citizens.

34. Disaggregating data is also a means of identifying indirect discrimination, which refers to laws, policies or practices which appear neutral at face value, but de facto treat certain population groups less favourably with no reasonable justification. For instance, the United States, in its most recent report to the universal periodic review in 2015, stated that in addressing the disproportionate percentage of minorities, particularly African-Americans, in the criminal justice system, "the Fair Sentencing Act of 2010 has reduced the disparity between more lenient sentences for powder cocaine charges and more severe sentences for crack cocaine charges (the latter of which are more frequently brought against racial minorities). Data from the U.S. Sentencing Commission through June 2014 indicate that 7,706 federal crack offenders' sentences have been reduced as a result of retroactive application of this change: of these offenders, an estimated 90 percent are African-American" (A/HRC/WG.6/22/USA/1). The harsher sentencing for crack cocaine-related offences was generating indirect discrimination in the administration of justice.

35. In addition to its function as a tool that would enable the assessment of the overall situation of discrimination, inform sound policies and monitor the impact of measures put in place, collecting data is also necessary to fulfil the right to information, especially for traditionally disadvantaged groups, which is provided for in article 19 of the International Covenant on Civil and Political Rights. Indeed access to demographic and ethnic data could have an empowering effect on traditionally marginalized groups, as it could foster greater and better participation in decision-making processes, thus positively impacting the realization of other

rights. Access to such information would increase visibility for those population groups vis-à-vis the other components of society, thereby sensitizing them to the existence of marginalized groups and their contribution to the life of the State.

36. The Special Rapporteur would like once more to insist that in the discharge of his mandate he has more often than not noted the absence of data disaggregated along the prohibited grounds of discrimination, especially ethnicity. In some cases that situation is due to the non-implementation of existing national provisions, linked to limited capacity and resources. In that respect, he acknowledges that disaggregating data can present several challenges, such as issues of feasibility and practicality, as it can turn out to be costly and require significant amount of resources and capacity, as underscored in the guide to the measurement of human rights indicators published by the Office of the United Nations High Commissioner for Human Rights (OHCHR).[7]

37. In some countries, however, the collection of "sensitive" data is forbidden by law and many States have demonstrated a strong resistance to collecting such information, sometimes on the grounds of legitimate human rights concerns. In a report on "Ethnic statistics and data protection in the Council of Europe countries" in 2007, the European Commission against Racism and Intolerance acknowledged the reluctance which surrounded the collection of sensitive data, resulting partly from a wrong interpretation of data protection laws, which are posed as insurmountable obstacles when in reality provisions have also been established to allow the collection of such sensitive data.

38. Although disaggregating data could be in contradiction to the right to privacy, or in the case of ethnic data lead to the revival of tensions within specific political contexts, or be misused, thus creating further discrimination and human rights abuses, the Special Rapporteur is of the view that those issues and obstacles can be overcome if certain strict human rights rules are observed by States and the mechanisms in charge of collecting such data.

B. Challenges

39. The Special Rapporteur notes that there are various forms of anxieties expressed by States with regard to the collection of ethnic data, often on the grounds that this would be incompatible with the right to privacy. That is the case for several European States, which have grounded their arguments in the provisions of the Council of Europe Convention for the Protection of Individuals with Regard to Automatic Processing of Personal Data of 1981 and European Union directive 95/46/EC on the protection of individuals with regard to the processing of personal data and on the free movement of such data. Both instruments prohibit the collection of ethnic data; however they both also contain exception clauses allowing for the collection of such data, provided that the national legal framework contains strong safeguards, including seeking the informed consent of the target population and guaranteeing privacy and data security, as well as strong justifications for the need to collect such data. The collection of personal data as vital to fighting discrimination and fostering equality meets the criteria of being a "substantial public interest", which is also a precondition under the European data protection regime.[8]

[8] See article 8 (4) of directive 95/46/EC.

40. States may also fear that the collection of data may reveal the inefficiency of the measures taken and/or lead to the inevitable allocation of additional funds to anti-discrimination policies. However, the Special Rapporteur would like to emphasize that this is merely a question of accountability and that one of the purposes of collecting data is to ensure such accountability.

41. The Special Rapporteur acknowledges that in highly polarized societies, figures showing evidence of inequalities may revive violence between groups competing for resources. The results of censuses in some countries are barely publicized, as they could represent a dangerous trigger for violent reactions in highly heterogeneous societies where individuals are mobilized on ethnic grounds. However, the Special Rapporteur would like to stress that collecting data is not a cause but rather a diagnosis of situations which are conducive to such violent confrontations between groups, who may have accumulated grievances caused by systemic inequalities and discrimination. Those fears should therefore be linked to the failure or unwillingness of States to address inequalities and discrimination rather than being imputed to the data itself. The resistance of States to collecting data may in some cases equate to obstructing the right to information, as there is an underlying resistance to documenting the situation of vulnerable or marginalized groups, including ethnic minorities.

42. Historically, population groups that have been discriminated against may also not have been in favour of the collection of that type of data, for fear that it might have the perverse effect of increasing their vulnerability to abuse. The Special Rapporteur acknowledges that specific tragic historical contexts have been a deterrent to the collection of "sensitive data" and have motivated the prohibition on collecting official ethnic data and statistics. The tragedies of ethnic cleansing under Nazi occupation in the Second World War can never be forgotten. Evidence shows that population data collection systems have greatly contributed to the identification of minorities and vulnerable groups, who were subsequently subjected to large-scale violations, as was the case for Jewish and Gypsy civilians during the Nazi occupation in the Netherlands, Belgium and France, among others. It has been documented that in the Netherlands, where the highest death rate of Jewish citizens was observed (73 per cent of all Dutch Jews), a comprehensive registration system had been developed for both administrative and statistical purposes prior to the Nazi occupation, whereby individuals were registered and identified by their belonging to a specific ethnic group, as reflected in their identity cards.[9] That was used by the Nazi administration, in complicity with the Dutch population registration authorities, to arrest and deport a large numbers of Jews and Gypsies to extermination camps. In recent history, the genocide in Rwanda was also partly organized on the basis of the existing population registration system inherited from the colonial era, which had been established by the Belgian colonial administration to divide the population into the two categories of Hutus and Tutsis. The production of identity documents, which actually mentioned the ethnic group to which individuals belonged, facilitated the massacre of more than 800,000 Tutsis in four months.

43. Such grave human rights violations provide clear evidence that population data can be misused and turned into dangerous tools. In some instances, false data have also been produced to serve political purposes, for instance to maintain ruling

[9] William Seltzer and Margo Anderson, "The dark side of numbers: the role of population data systems in human rights abuses", *Social Research*, vol. 68, No. 2 (summer 2001).

minority groups in positions of domination vis-à-vis the majority, or for electoral purposes. When ethical and human rights safeguards are not observed, disaggregation of data on religious or ethnic grounds can easily be instrumentalized. The misuse of data has been explained by a number of factors, including ideology, racism, nationalism, political and administrative opportunism, or professional zeal on the part of national statistical agencies or population registration administrative bodies in cooperation with power entities such as the security or military forces.[9] In that respect, the Special Rapporteur would like to underscore the importance of establishing independent data collection institutions with a mandate strongly grounded in international legal provisions and norms regulating such activities.

44. Moreover, ethnic statistics have been used in some instances as double-edged swords to stigmatize certain social groups. That is especially true for crime statistics. For example in Europe, Roma communities have often been overrepresented among the prison population incarcerated for criminal offences,[10] as is the case of African-Americans in the United States. Those statistics have been used to generate stereotypes and the perception that those population groups have a propensity towards crime because of cultural or certain innate characteristics.

45. If, therefore, the production of disaggregated data is essential for assessing and addressing discrimination, the establishment and implementation of human rights safeguards are prerequisites to collecting such data.

C. Safeguards on sensitive data

46. The international human rights legal framework clearly provides that in order to collect and process personal data, due regard should be given to the right to privacy and the protection of data. Moreover, the process should be participatory and based on informed consent and self-identification.

1. Right to privacy and data protection

47. In its general comment No. 16 (1988), on the right to privacy, the Human Rights Committee stipulated, inter alia, that the gathering and holding of personal information on computers, data banks and other devices, whether by public authorities or private individuals or bodies, must be regulated by law and that States must take effective measures to ensure that information concerning a person's private life does not reach the hands of persons who are not authorized by law to have it and it must never be used for purposes incompatible with the Covenant. In order to guarantee privacy everyone should have the right to ascertain whether, and if so what, personal data are stored in automatic data files and for what purposes. Everyone should also be able to ascertain who controls or may control their files and if they contain incorrect data or are contrary to the provisions of the law, they should have the right to request rectification or elimination.

48. According to the *Principles and Recommendations for Population and Housing Censuses*, ensuring confidentiality is crucial to achieving a successful census. Clear information has to be provided as to the purpose of collecting individual data, the sole aim of which should be the production of statistics, and

[10] See, for example, European Commission against Racism and Intolerance, "'Ethnic' statistics and data protection in the Council of Europe countries" (2007).

guarantees should be provided that individual information will not be further disseminated or used for any other government databases, in accordance with principle 6 of the Fundamental Principles of Official Statistics.[11] The Special Rapporteur is of the view that, while the collection and dissemination of data fulfils the right to information, it must first and foremost protect the human right to privacy and confidentiality. The Durban Declaration and Programme of Action, which calls for the collection of data disaggregated by ethnicity, also requests that States establish the necessary legal safeguards to the collection of such data, which should be submitted to strict data protection regulations and privacy guarantees.

49. As previously stated, at the European level very strict provisions have been developed to ensure that personal data is safeguarded. In addition to the two instruments previously cited, article 8 of the Treaty on the Functioning of the European Union stipulates that everyone has the right to the protection of their personal data and that such data must be processed fairly, for specified purposes, and on the basis of the consent of the person concerned. The collection of personal data should be legitimized by legal provisions and justified for reasons of substantial public interest. The data should remain accessible to the person to whom it belongs and individuals should have the right to have their personal information rectified if they so wish.

50. Each individual should therefore, in absolute terms, remain in control of their personal information.

51. Principle 5 of the African Charter on Statistics, which provides for the protection of individual data, information sources and respondents, requests that States guarantee the protection of the private life of data providers and that persons interviewed during statistical surveys be informed of the objective of such interviews and made aware of data protection measures. Such data should in no circumstance be used for judicial proceedings, punitive measures or for the purpose of taking administrative decisions against individuals or entities, and statistical surveys should only be undertaken by the authorities if pertinent information is unavailable from administrative records or the quality of such information is inadequate in relation to the requirements of producing statistical information. The Special Rapporteur would like to stress that personal data should indeed never be used to take decisions relating to those persons from whom the data has been collected.

52. There has been a strong call to turn personal data rapidly into statistical data, so that it is impossible to connect data with persons. In the case of population censuses, those responsible are encouraged to store data with an independent institution and in a location outside the jurisdiction of the courts, especially in countries where the requisite institutions are too weak to guarantee fully privacy and the safety of the data. A number of methodological, legal and ethical safeguards have been developed and proposed to reduce the risk of future abuse of personal data. For example, it is recommended that, to the extent possible, sample surveys should be used instead of full censuses and identifiers that are specific to individuals should be stripped out.[12]

[11] See General Assembly resolution 68/261.

[12] See OHCHR, *Human Rights Indicators: a Guide to Measurement and Implementation; Principles and Recommendations for Population and Housing Censuses*, revision 2 (United Nations publication, Sales No. E.07.XVII.8); and the Fundamental Principles of Official Statistics.

53. In the United Kingdom of Great Britain and Northern Ireland, where a strong and thorough framework for the collection of ethnic data has been long established, the code of practice for national statistics under the Census Act provides that national statistics should only be used for statistical purposes and the data kept in secure locations. Access to that data must be granted by the Information Commissioner, the independent authority responsible for monitoring application of the Data Protection Act, who should ascertain that the data will be used exclusively for justifiable research. In the event that information identifying individuals must be released by law, it will be contingent on the explicit direction and personal responsibility of the National Statistician.[13]

54. With regard to privacy, the Special Rapporteur stresses that ethnically disaggregated data should always be collected with the explicit consent of the individuals concerned and contingent upon the existence of strong data protection regulations and privacy guarantees in the national legal framework. The right to privacy, from which the principle of individual autonomy can be derived, has also been closely linked to the right of individuals to self-identification, which is another precondition for collecting data.

2. Self-identification

55. In its general recommendation No. 8 (1990) concerning the interpretation and application of article 1, paragraphs 1 and 4, of the Convention, the Committee on the Elimination of Racial Discrimination reasserted self-identification as a pillar of the collection of ethnically disaggregated data. Self-identification is inscribed within the right of individuals to assert their own identity. Indeed, while disaggregation by criteria such as sex, age, income and socioeconomic status may be established with more or less ease, disaggregation by ethnicity is challenging, because the identification of ethnic groups involves both objective (e.g., language) and subjective (e.g., sense of belonging) criteria, which are continuously evolving.[14]

56. Broadly defined, ethnicity is based on a shared understanding of history and territorial origins (regional and national) of an ethnic group or community and on particular cultural characteristics, such as language and/or religion. Understanding or views about ethnicity, awareness of family background, the number of generations that have been in a country and the length of time since immigration are all possible factors affecting the reporting of ethnicity in a census. Ethnicity is multidimensional and more a process than a static concept; therefore ethnic classification should be treated with movable boundaries.[15] The principle of self-identification, therefore, addresses the related concern of how ethnic categories should be determined and on what basis should individuals be classified.

57. The Special Rapporteur is of the view that it would be arbitrary to categorize individuals automatically, based on an assumption or perception of the agent collecting the data, which could easily equate to stigmatization and prejudice. Information on ethnicity should always be acquired through self-declaration of the

[13] See University of Essex Human Rights Centre Clinic, "Disaggregated data and human rights: law, policy and practice" (2013).

[14] See Olivier De Schutter and Julie Ringelheim, "*Ethnic Monitoring. The Processing of Racial and Ethnic Data in Anti-discrimination Policies: Reconciling the Promotion of Equality with Privacy Rights*," (Brussels, Bruylant, 2010).

[15] *Principles and Recommendations for Population and Housing Censuses*, revision 2.

respondent, who should also have the option of indicating multiple or no ethnic affiliations without any negative consequences. Some of the identified shortcomings of self-identification include the discrepancy between self-perception and perception by others, as that may not reflect the fact that racism and discrimination are often based on appearance rather than identity.[14] It has been pointed out that, although several studies have concluded that the outcomes of classification by third parties and self-classification are relatively similar, distrust may lead to underreporting by members of certain communities, who would prefer not to be classified among those groups which are subject to discriminatory attitudes. The Special Rapporteur believes that, despite those shortcomings, self-identification should remain the norm, as it is based on the important notion that the State should not impose an identity on the individual.

58. The Special Rapporteur stresses that confidence-building efforts are needed in order to persuade minorities that there is nothing to fear from self-identifying with a group. That is important for the successful conduct of personal data collection exercises, in terms of both the quantity and accuracy of the information gathered.

3. Participation

59. Self-identification also implies the participation of target populations in the data collection process. The human rights principle of participation encourages all sections of the population, including vulnerable and marginalized groups and human rights and other relevant institutions, to actively contribute to the decision-making process surrounding the collection of data.

60. The Special Rapporteur believes that indicators should be relevant to the communities surveyed and that the active involvement of targeted groups would enable such relevance. Consulting all stakeholders in all stages of the exercise would help to build confidence between the authorities and the groups concerned and would also lead to better survey design, including the choice of relevant indicators. Moreover, involvement should also be understood as providing the right to members of vulnerable groups to be informed about the results of data collection and about the effectiveness of the anti-discrimination legislation, policies and programmes in place.

V. Implementing equality data collection and disaggregation

A. Institutional and policy framework

61. The Special Rapporteur would like to stress the importance of establishing adequate mechanisms and an institutional framework for the collection of personal data, in strict compliance with the necessary human rights safeguards. The different stakeholders, including national statistical agencies, relevant government agencies, national human rights institutions and civil society organizations, should come together in measuring discrimination and also in monitoring and assessing the impact of adjustment policies.

62. According to the *Principles and Recommendations for Population and Housing Censuses*, censuses are the principal means of collecting basic population statistics, as they provide a comprehensive source of statistical information for

economic and social development planning, as well as assessing conditions in human settlements. In order to have representative censuses, it is recommended that census authorities in a number of countries be alert to the possibility of stereotypes and biases affecting data on minority population groups. As representatives of those minority groups can often provide census planners with important information and insights relevant to both census content and operations, they should be consulted when planning a census. It is worth noting that in the context of a population census, in addition to identifying adequate indicators, census agents should be trained so as to avoid biases that may impact the proper collection of accurate data.

63. Socioeconomic indicators are often used as proxy variables for measuring equality and discrimination, to assess the extent to which the realization of various human rights is taking into consideration the cross-cutting norms of equality and non-discrimination. However, according to the OHCHR guide to the measurement of human rights indicators, classic quantitative measurements may not be enough to explain the difference in treatment or outcome between individuals belonging to different ethnic groups. It is suggested, therefore, that in addition to collecting quantitative data, qualitative analysis might be needed to arrive at a more definite assessment of discrimination. That is also necessary insofar as victims are sometimes unable to identify the discrimination to which they are subjected. Events-based information-gathering and direct surveys should therefore also be used in monitoring discrimination and assessing the prevalence of discriminatory practices. Some useful statistical tools set out in the OHCHR guide include socioeconomic statistics disaggregated by prohibited grounds of discrimination to capture disparities and differential outcomes that are often the result of multiple and accumulative discrimination; population surveys measuring experiences, perceptions and attitudes regarding discrimination; and discrimination or situation-testing surveys to measure directly discrimination in specific areas, such as access to work, housing, health care or other public services.

64. The Special Rapporteur would also like to emphasize the inherent conflict of interest that may arise between the data-gathering function, which is usually undertaken by service providers, and the analysis function, which should be undertaken by an independent entity in charge of analysing and interpreting the information collected from a human rights perspective. For example, in Europe that task could be entrusted to the equality bodies, which are independent organizations assisting victims of discrimination, monitoring and reporting on discrimination issues, and promoting equality.

65. Data collection and analysis are complementary activities and should involve all stakeholders, including ministries and departments of public administration that produce administrative data; the national statistical agencies which undertake survey-based data; and national human rights institutions and civil society organizations for the collection of events-based data. While interpretation should be conducted by an impartial independent body, the Special Rapporteur encourages the relevant institutions to take full ownership of assessment outcomes, in order to implement the necessary corrective measures, including affirmative action plans.

66. Furthermore, due consideration should be given to principle 2 of the Fundamental Principles of Official Statistics, which states that to retain trust in official statistics, the statistical agencies need to decide according to strictly professional considerations including scientific principles and professional ethics,

on the methods and procedures for the collection, processing, storage and presentation of statistical data. Statistical agencies are also to facilitate a correct interpretation of the data and present information according to scientific standards on the sources, methods and procedures of the statistics (principle 3). Finally, in order to foster transparency, the laws, regulations and measures under which the statistical systems operate are to be made public (principle 7).

67. The Special Rapporteur is of the view that equality data can also be collected and analysed by independent research agencies, even in those contexts where there are legal prohibitions on the collection of such data. In his report on his visit to Spain, he emphasized that in the absence of official ethnic statistics at the time, the authorities had made extensive use of data and information gathered by NGOs and other relevant actors (see A/HRC/23/56/Add.2). The Special Rapporteur recommends that in such contexts, the State should provide resources to independent entities (such as universities) to allow them to collect the necessary data.

68. A report by the European Commission against Racism and Intolerance surveying the status of data collection among the 42 member States concluded that only half of them had collected data on ethnicity and/or religion.10 The research shows that practices regarding the collection of ethnic data have varied widely and such undertakings have most often been justified by reference to public interest, rather than on the basis of a legal obligation as part of anti-discrimination efforts.

69. The United Kingdom is an exception in the European context, as the Race Relations Act (1976) and the Data Protection Act (1998) specifically request the collection of ethnic data, which have been established as necessary for monitoring the existence or absence of equality of opportunity and treatment between individuals of different ethnic origin. The Race Relations Act clearly states that collecting statistical information is a legal obligation which applies to public authorities at the local and national levels and to firms with 150 employees or more. The Information Commissioner has large powers in authorizing the collection of "sensitive data". Since 1991, censuses in the country have included a question on ethnic groupings. The current categories are the result of extensive consultation between stakeholders and the census authorities.

70. In the context of its voluntary commitment to implementing a national system of human rights indicators, Brazil has established a Committee for Social Statistics, the lead coordinating body in charge of integrating a human rights perspective into social indicators. The committee is part of the Brazilian Institute of Geography and Statistics. As a result, the demographic census in 2010 included targeted questions to generate data disaggregated along criteria such as disability, indigenous language and race or colour. Brazil has sought international cooperation to develop the components of the national system of human rights indicators, in partnership with OHCHR and United Nations agencies (see A/HRC/WG.6/13/BRA/1). Human rights elements have been included in a database of indicators that contribute to policymaking, including Datasus, the computer systems department of the unified health system, which gathers information relative to the unified health system, the family grant registry and the school census.

71. The Special Rapporteur would like to voice his grave concern with regard to the absence of hate-crime statistics, which could be explained, inter alia, by insufficient awareness on the part of the authorities, who are failing to implement their duty to protect victims and provide them with effective remedies. The

underreporting of racially motivated crimes strengthens widespread impunity and deprives victims of access to effective remedies.

72. In its general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, the Committee on the Elimination of Racial Discrimination recommended that States pay attention to indicators on discrimination, such as figures on racially motivated offences, especially those committed by police officers or other State agents. The absence, or low level, of complaints, prosecutions and convictions relating to acts of racial discrimination could be explained by the fact that victims might not be aware of their rights, might fear social censure or reprisals, might have limited trust in the police or judicial authorities or be deterred by the perceived or actual complexity and cost of the judicial process.

73. In order to assess discrimination by law enforcement agents, the Committee also recommended that attention be paid to whether there was a proportionately higher crime rate attributed to persons belonging to vulnerable groups, particularly as regards petty crimes and offences related to drugs and prostitution, as well as assessing harsh or inappropriate sentencing and the proportion of the prison population composed of persons from marginalized groups. The Special Rapporteur is of the view that the collection of such data would also allow for the detection of practices of racial profiling and increase transparency, as addressed in his report to the Human Rights Council in June 2015 (A/HRC/29/46).

74. In its general recommendation No. 31, the Committee also recommended that States collect on a regular basis, and in compliance with human rights safeguards, data from police, judicial and prison authorities and migration services on complaints, prosecutions and convictions relating to acts of racism and xenophobia and on the compensation awarded to the victims of such acts. Security and judicial institutions should therefore play an important role in collecting equality data, with a view to assessing whether the conduct of their respective mandates is free of discriminatory practices. Such data collection activities should be coordinated in cooperation with the specialized data collection institutions and strictly observe the legal framework regulating the gathering of personal data.

75. The United Kingdom has established good practice by systematically gathering data on law enforcement, disaggregated by ethnicity. The Equality Act of 2010 established a legal framework applicable to all public service entities, including the police, customs and excise officers, tax officers, trading standards and health and safety officers, licensing bodies, the immigration authorities and the prisons and probation administration. The act mandates the publication of equality objectives and information and the monitoring of progress towards meeting those objectives. Furthermore, the Police and Criminal Evidence Act (1984), which provides the police with the powers to stop and search individuals, also require that such stops and searches be recorded, inter alia, to enable the production of data through which supervisors, police authorities and local communities can identify any incorrect use of powers by police officers, including racial profiling.[16]

76. In Bulgaria, Hungary and Spain, a pilot project funded by the European Union called "Strategies for effective police stop and search", introduced stop forms to

[16] See Open Society Foundations, *Reducing Ethnic Profiling in the European Union: a Handbook of Good Practices* (New York, 2012).

record the nationality and/or ethnicity of the persons stopped. In the course of the project, evidence was found that the production of such data can reduce ethnic profiling and enhance efficiency at the same time.[16]

77. The Special Rapporteur would like to emphasize that in order to complement data generated by the use of stop forms, other data sources should be used, including information gathered by civil society actors through event-based surveys documenting occurrences of racial profiling and racially motivated crimes.

B. Data and the post-2015 development agenda

78. As the world is preparing to adopt a new development agenda, the question of how it has fared in implementing non-discrimination and equality measures through the Millennium Development Goals further draws attention to the need to develop adequate indicators to assess the realization of the objective of "leaving no one behind".

79. Development indicators, such as the human development index, have demonstrated that essentially focusing on national aggregates has not enabled inequalities to be captured and has further contributed to making the most disadvantaged components of society more invisible. A World Bank study shows that about half of the 155 developing countries surveyed lack adequate data to monitor poverty and, as a result, the poorest people in those countries have often remained undetected by the existing data.[17] The same can be said at the international level, as the performance indicators developed to assess the outcome of development policies have fallen short of properly assessing the human rights aspect of development. However, the Special Rapporteur would like to acknowledge the shift in 2006 to adopting a human rights-based approach to development in the programming of the United Nations Development Programme. That approach has sought to integrate the cross-cutting human rights norms, including non-discrimination and equality, in the monitoring and assessment of development policy outcomes and the implementation of development programmes.

80. The Millennium Development Goals Report 2015, while emphasizing that significant progress has been made in reducing extreme poverty by half, also stresses that this progress has been uneven. Millions of people are being left behind, especially the poorest and those disadvantaged because of their sex, age, disability, ethnicity or geographic location. The report identifies the lack of timely data and the unavailability of disaggregated data as a major challenge, which has often led to the implementation of inefficient decision-making and planning because they are based on outdated or inaccurate data.

81. Eradicating poverty and hunger remains at the core of the post-2015 development agenda and because access to basic services, such as education, health care or clean water, is frequently determined by socioeconomic status, gender, ethnicity or geography, there has been a strong call, including from civil society, for developing indicators that would enable the collection of more disaggregated statistics. They would capture the situation of the most vulnerable and marginalized

[17] See Umar Serajuddin and others, "Data deprivation: another deprivation to end", Policy Research Working Paper No. 7252 (Washington, D.C., World Bank, 2015).

populations and enhance measurement of discrimination and inequalities, both within and between countries.

82. The post-2015 development agenda emphasizes the need to commit further to combating discrimination and inequality. Target 10.3 of the proposed sustainable development goals calls for greater equality within and between countries through the elimination of discriminatory laws, policies and practices, while target 17.18 reflects the need to strengthen the means of implementation, including enhancing the collection of data disaggregated by income, gender, age, race, ethnicity, migratory status, disability, geographic location and other characteristics relevant in national contexts.

83. The Special Rapporteur would like to emphasize that the collection of disaggregated data along the prohibited grounds of discrimination should be systematically conducted in all countries, while observing the necessary human rights safeguards. As highlighted throughout the present report, disaggregated data is essential for assessing levels of discrimination and inequality and to ensure that everyone is accounted for in any development progress.

VI. Conclusions and recommendations

84. **The Special Rapporteur welcomes the efforts made at the international, regional and national levels to develop normative frameworks for the collection and protection of personal data. He also takes note of the progress made in including questions on ethnicity in censuses across the world. However, the systematic collection of ethnically disaggregated data remains the exception rather than the norm and is often posited as a discretionary measure. The Special Rapporteur urges States to establish legal and institutional frameworks for the periodic collection of ethnically disaggregated data, with a view to highlighting the existence and extent of discrimination, in compliance with their international legal obligations. Ethnically disaggregated data is a necessary tool in gathering evidence of occurrences of racial discrimination; evaluating the situation of groups that are discriminated against; assessing the effectiveness of the measures taken; monitoring progress made; and deciding on special measures to correct the situation. Disaggregated data are essential to meaningful prevention and enforcement, and key to setting up evidence-based targets and designing appropriate and effective anti-discrimination legislation, policies and programmes.**

85. **While the Special Rapporteur strongly advocates for the establishment by States of a specific mandate for the collection of personal data, with a view to assessing levels of discrimination and implementing adequate policies, he also stresses the need for strong legal provisions on data protection and confidentiality, which are the necessary safeguards for observing the right to privacy and protecting individuals. Moreover, ethical safeguards, such as the Fundamental Principles of Official Statistics and the Declaration on Professional Ethics of the International Statistical Institute, should be adopted and enforced, with a view to creating national institutional frameworks that will prevent the misuse of data.**

86. **The Special Rapporteur recalls the importance of establishing participatory data-collection activities. National human rights institutions and**

civil society actors should be thoroughly consulted in designing and implementing data-collection activities, as this would foster more effective data-collection systems and generate more accurate information, while building trust among vulnerable communities. Similarly, States should ensure the independence of official statistics. Moreover, the interpretation and monitoring of the data collected should be entrusted to independent agencies, such as the equality bodies in Europe, in order to guarantee the accountability of public service providers. The results of data-collection exercises should be made public, in conformity with data safety and protection rules, in order to inform the population and especially the groups concerned, with a view to empowering them in seeking equal treatment.

87. The Special Rapporteur is aware of the challenges posed by the operationalization and financial implications of collecting data on a large scale and calls upon Member States to seek or provide appropriate technical and financial assistance at the regional and international levels. In that respect, the Special Rapporteur welcomes the commitment under target 17.18 of the proposed sustainable development goals to support statistical capacity-building in developing countries. The Special Rapporteur further encourages States to seek capacity-building assistance from OHCHR in integrating a human rights approach to collecting personal data and refers to the methodology developed in the OHCHR guide to measuring and implementing human rights indicators.

88. The Special Rapporteur remains gravely concerned at the low rates of recording racially motivated crimes and data on discrimination in the administration of justice. He urges States to make all necessary efforts to collect data that could help determine the occurrence of hate crimes, assess the access of victims to justice and detect discrimination in the administration of justice, including racial profiling, which he addressed in his most recent report to the Human Rights Council (A/HRC/29/46). In that regard, the Special Rapporteur encourages States to enforce the recommendations issued by the Committee on the Elimination of Racial Discrimination in its general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system.

89. The Special Rapporteur echoes the recommendation stemming from the Millennium Development Goals Report 2015 that "only by counting the uncounted can we reach the unreached" and that high-quality data, disaggregated by the prohibited grounds of discrimination, including sex, indigenous status, ethnicity, disability and migrant status, among others, are key to making adequate decisions and monitoring progress towards achieving universal sustainable development.

90. The Special Rapporteur calls upon the Statistical Commission, which is the technical forum for the development and implementation of the indicators and monitoring framework and reporting mechanisms for the goals and targets of the post-2015 development agenda, to ensure that adequate indicators are developed to measure the human rights impact of the new development policies and establish specific measures to capture the cross-cutting human rights principle of non-discrimination and equality. He further suggests that civil society should be active players in determining adequate indicators for

monitoring whether development policies foster equal opportunities and seek to mitigate inequalities in outcome.

91. **The Special Rapporteur welcomes the target of increasing the collection of disaggregated data across the prohibited grounds of discrimination under target 17.18 of the proposed sustainable development goals. He would like to stress that data should be disaggregated on the basis of the agreed-upon prohibited grounds of discrimination, rather than discretionary context-relevant criteria. He invites States to inscribe the collection of ethnically disaggregated data within the framework of their obligation to fight discrimination.**

92. **Finally, the Special Rapporteur reminds States of the previous recommendations made by the mandate and other human rights mechanisms on the necessity of collecting disaggregated data with a view to upholding the cross-cutting human rights principle of non-discrimination.**